

MONTANA LEGISLATIVE HISTORY

Chapter 331 1993

Bill H 394 S _____

Original bill & history ☒ c

H. Committee on Bus & Ec. Dev

Hearing Date(s) 2/11 _____ c

ex 2/11 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Bus & In

Hearing Date(s) 3/23 _____ c

3/26 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

CHAPTER NUMBER 446
EFFECTIVE DATE: 07/01/93

HB 394 INTRODUCED BY BENEDICT, ET AL.
GENERALLY REVISE MONTANA SCIENCE AND TECHNOLOGY FINANCING
ACT

1/30	INTRODUCED		
1/30	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/30	FISCAL NOTE REQUESTED		
1/30	FIRST READING		
2/05	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/11	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	60	38
2/19	3RD READING PASSED	63	35
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO BUSINESS & INDUSTRY		
3/23	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/31	2ND READING CONCURRED	46	2
4/01	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/08	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 331		
	EFFECTIVE DATE: 07/01/93		

HB 395 INTRODUCED BY FOSTER, ET AL.
TEMPORARILY CLOSE UPPER MISSOURI RIVER BASIN TO CERTAIN
APPROPRIATIONS

1/30	INTRODUCED		
1/30	REFERRED TO NATURAL RESOURCES		
1/30	FISCAL NOTE REQUESTED		
1/30	FIRST READING		
2/04	FISCAL NOTE RECEIVED		
2/05	FISCAL NOTE PRINTED		
2/10	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	86	9
2/22	3RD READING PASSED	88	11
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO NATURAL RESOURCES		
3/22	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCURRED	36	1
3/27	3RD READING CONCURRED	45	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	92	6
4/02	3RD READING AMENDMENTS CONCURRED	92	6
4/07	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/13	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		

	1/29	PASS AS AMENDED	2/3	VOTE: 15-3	2/04
LINDA		REVISE EXAM FOR LICENSED PUBLIC ACCOUNTANTS			
	2/09	DO PASS	2/9	VOTE: 17-0	2/09
E, RAY		GENERALLY REVISE BOARD OF REALTY LAWS; REQUEST AN EDUCATION COUNCIL			
	2/10	PASS AS AMENDED	2/10	VOTE: 18-0	2/11
LLIAM		PROPERTY AUCTION TO INVOLVE REAL ESTATE BROKER			
	2/10	TABLED ON	02/10	VOTE: 18-0	
JOE		LEAST COST RESOURCE PLANNING FOR UTILITIES			
	2/10	PASS AS AMENDED	2/10	VOTE: 18-0	2/11
T, STEVE		REVISING THE MONTANA SCIENCE & TECHNOLOGY FINANCING ACT			
	2/11	PASS AS AMENDED	2/11	VOTE: 17-0	2/12
DUANE		REVISE MONTANA COMPREHENSIVE HEALTH ASSOCIATION PLAN			
	2/09	TABLED ON	02/09	VOTE: 17-0	
DON		RULES FOR MOBILE HOME PARKS			
	2/05	PASS AS AMENDED	2/18	VOTE: 14-4	2/19
, JR., WILLIAM		REVISE WATER WELL CONTRACTOR DISCIPLINARY PROCEDURES			
	2/10	DO PASS	2/10	VOTE: 18-0	2/11
VIVIAN		EXEMPT FARMER'S MARKET SELLERS FROM FOOD ESTABLISHMENT LICENSURE			
	2/09	DO PASS	2/9	VOTE: 17-0	2/09
, BOB		SUBJECT DEPARTMENT BUILDING CODE CHANGES TO LEGISLATIVE APPROVAL			
	2/12	TABLED ON	02/12	VOTE: 16-0	
L, JERRY		REQUIRE POSTING OF BEER AND WINE PRICES			
	2/18	TABLED ON	02/18	VOTE: 18-0	

HOUSE BILL NO. 394

INTRODUCED BY BENEDICT, ECK, B. BROWN, LYNCH,
FRITZ, WYATT, WISEMAN, HIBBARD, D. BROWN, KEATING

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
FEBRUARY 19, 1993	THIRD READING, PASSED. AYES, 63; NOES, 35.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *394*
 2 INTRODUCED BY *Benshit Eck B.C. Brown*
 3 *Fritz Weyer Hilland Dave Brown*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SCIENCE AND *Technology*
 5 TECHNOLOGY ADVISORY COUNCIL; EXTENDING INVESTMENT AUTHORITY
 6 FROM THE PERMANENT COAL TAX TRUST FUND; GENERALLY REVISING
 7 THE MONTANA SCIENCE AND TECHNOLOGY FINANCING ACT; AMENDING
 8 SECTIONS 17-6-201, 17-6-308, 90-3-102, 90-3-305, 90-3-505,
 9 90-3-523, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN
 10 EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Science and technology
 14 advisory council. (1) There is a science and technology
 15 advisory council.

16 (2) The council is composed of 11 members appointed by
 17 the governor from the private sector and the
 18 university-based research and development community.

19 (a) Ex officio members include the executive director
 20 of the Montana board of science and technology development
 21 and the commissioner of higher education or the
 22 commissioner's designee.

23 (b) The members to be appointed by the governor include
 24 nine members representing Montana's agricultural, forestry,
 25 mining, energy, manufacturing, communications, and other

1 industries.

2 (3) Members shall serve 3-year terms.

3 (4) The council shall:

4 (a) produce and update the Montana science and
 5 technology plan biennially;

6 (b) oversee the implementation of all elements of the
 7 Montana science and technology plan; and

8 (c) provide advice and counsel to the governor, the
 9 legislature, the Montana board of science and technology
 10 development, and other state agencies involved in science
 11 and technology development.

12 (5) The council is allocated to the department of
 13 commerce for administrative purposes only as provided in
 14 2-15-121.

15 Section 2. Section 17-6-201, MCA, is amended to read:

16 "17-6-201. Unified investment program -- general
 17 provisions. (1) The unified investment program directed by
 18 Article VIII, section 13, of the 1972 Montana constitution
 19 to be provided for public funds shall must be administered
 20 by the board of investments in accordance with the prudent
 21 expert principle, which requires any investment manager to:

22 (a) discharge his duties with the care, skill,
 23 prudence, and diligence, under the circumstances then
 24 prevailing, that a prudent person acting in a like capacity
 25 with the same resources and familiar with like matters

1 exercises in the conduct of an enterprise of a like
2 character with like aims;

3 (b) diversify the holdings of each fund within the
4 unified investment program to minimize the risk of loss and
5 to maximize the rate of return, unless under the
6 circumstances it is clearly prudent not to do so; and

7 (c) discharge his duties solely in the interest of and
8 for the benefit of the funds forming the unified investment
9 program.

10 (2) Retirement funds may be invested in common stocks
11 of any corporation provided that no investment may not be
12 made at any time which that would cause the book value of
13 such the investments in any retirement fund to exceed 50% of
14 the book value of such the fund or would cause the stock of
15 one corporation to exceed 2% of the book value of such the
16 retirement fund.

17 (3) (a) ~~Nothing-contained-in-this~~ This section prevents
18 does not prevent the investment in any business activity in
19 Montana, including activities that continue existing jobs or
20 create new jobs in Montana.

21 (b) The board is urged under the prudent expert
22 principle to invest up to 3% of retirement funds in venture
23 capital companies. Whenever possible, preference should be
24 given to investments in those venture capital companies
25 which demonstrate an interest in making investments in

1 Montana.

2 (c) In discharging its duties, the board shall consider
3 the preservation of purchasing power of capital during
4 periods of high monetary inflation.

5 (4) The board has the sole primary authority to invest
6 state funds. No Except as provided in this chapter, no other
7 agency may invest such state funds. The board shall direct
8 the investment of state funds in accordance with the laws
9 and constitution of this state. The board has the power to
10 veto any investments made under its general supervision.

11 (5) The board shall:

12 (a) assist agencies with public money to determine if,
13 when, and how much surplus cash is available for investment;

14 (b) determine the amount of surplus treasury cash to be
15 invested;

16 (c) determine the type of investment to be made;

17 (d) prepare the claim to pay for the investment; and

18 (e) keep an account of the total of each investment
19 fund and of all the investments belonging to such the fund
20 and a record of the participation of each treasury fund
21 account therein in each fund.

22 (6) The board may:

23 (a) execute deeds of conveyance transferring all real
24 property obtained through foreclosure of any investments
25 purchased under the provisions of 17-6-211 when full payment

1 has been received therefor for the property;

2 (b) direct the withdrawal of any funds deposited by or
3 for the state treasurer pursuant to 17-6-101 and 17-6-105;

4 (c) direct the sale of any securities in the program at
5 their full and true value when found necessary to raise
6 money for payments due from the treasury funds for which the
7 securities have been purchased.

8 (7) The cost of administering and accounting for each
9 investment fund shall must be deducted from the income
10 therefrom from each fund.

11 (8) At the beginning of each fiscal year, the board
12 shall, from the appropriate fund, reimburse the department
13 of commerce for the costs of administering programs
14 established under Title 90, chapter 3, that are not covered
15 by payback funds available from the account established in
16 90-3-305.

17 (9) (a) The director of the department of
18 administration annually may prepare a statewide cost
19 allocation plan to distribute program costs incurred by
20 state agencies that are funded through the general fund to
21 the programs served by the agencies. Except as provided in
22 subsection ~~(8)(b)~~ (9)(b), the cost to an agency of providing
23 services to a program funded through an account in the state
24 special revenue fund as defined in 17-2-102 must be deducted
25 by the board from the account's investment earnings

1 according to the statewide cost allocation plan. Amounts
2 deducted by the board must be credited to the general fund.

3 (b) No A deduction for program costs, as provided in
4 subsection ~~(8)(a)~~ (9)(a), may not be made if an account's
5 cash on hand is pooled for investment in the treasury cash
6 account defined in 17-6-202."

7 **Section 3.** Section 17-6-308, MCA, is amended to read:

8 "17-6-308. Authorized investments. (1) Except as
9 provided in subsections (2) and (3) and subject to the
10 provisions of 17-6-201, the Montana permanent coal tax trust
11 fund must be invested as authorized by rules adopted by the
12 board.

13 (2) The board may make loans from the permanent coal
14 tax trust fund to the capital reserve account created
15 pursuant to 17-5-1515 to establish balances or restore
16 deficiencies in the account. The board may agree in
17 connection with the issuance of bonds or notes secured by
18 the account or fund to make the loans. Loans must be on
19 terms and conditions as the board determines and must be
20 repaid from revenues of the board realized from the exercise
21 of its powers under 17-5-1501 through 17-5-1518 and
22 17-5-1521 through 17-5-1529, subject to the prior pledge of
23 the revenues to the bonds and notes.

24 (3) The board shall allow the Montana board of science
25 and technology development, provided for in 2-15-1818, to

1 administer \$7.5 \$15.5 million of the permanent coal tax
 2 trust fund for seed capital project loans and \$5.1 million
 3 of the permanent coal tax trust fund for research and
 4 development project loans pursuant only to the provisions of
 5 Title 90, chapter 3. This authority does not extend beyond
 6 June 30, 1994 1997, for seed capital project loans and
 7 beyond June 30, 1995, for research and development project
 8 loans. Until the Montana board of science and technology
 9 development makes a loan pursuant to the provisions of Title
 10 90, chapter 3, the funds under its administration must be
 11 invested by the board of investments pursuant to the
 12 provisions of 17-6-201.

13 (4) The board shall adopt rules to allow a nonprofit
 14 corporation to apply for economic assistance. The rules must
 15 recognize that different criteria may be needed for
 16 nonprofit corporations than for for-profit corporations."

17 **Section 4.** Section 90-3-102, MCA, is amended to read:

18 "90-3-102. Definitions. As used in this chapter the
 19 following definitions apply:

20 (1) "Act" means the Montana science and technology
 21 financing act.

22 (2) "Board" means the Montana board of science and
 23 technology development provided for in 2-15-1818.

24 (3) "Company" means a firm, partnership, corporation,
 25 association, or any other entity authorized to conduct

1 business in Montana.

2 (4) "Convertible debenture" means a debenture
 3 convertible into stock under certain conditions by any
 4 individual or company. The debenture may not be converted by
 5 the board.

6 (5) "Debenture" or "note" means a writing or
 7 certificate issued as evidence of debt.

8 (6) "Department" means the department of commerce
 9 created in 2-15-1801.

10 (7) "Expansion capital project" means a science and
 11 technology development project undertaken to enable a
 12 company to expand its manufacturing and marketing activities
 13 in order to move its products or services into new markets
 14 or to expand existing markets.

15 (8) "Innovative technology" means the involvement of a
 16 product or process that embodies the use of implements,
 17 machinery, equipment, chemical formulations, resources,
 18 materials, methods, or other items in a manner that departs
 19 from previous commercial developments, practices, or
 20 applications.

21 (9) "Matching funds" means the funds received in cash
 22 by the science and technology development project loan
 23 recipient from nonstate-appropriated sources and committed
 24 by the loan recipient to the project in an amount that is at
 25 least equal to the funds loaned to the recipient by the

1 board for use in the science and technology development
2 project.

3 (10) "Medical facility research and development project"
4 means a research and development project designed to advance
5 the development and operation of facilities that concentrate
6 on fields of medical research involving advanced technology
7 applied to national medical concerns through the financing
8 of personnel, equipment, and operating costs with the goal
9 of establishing the facilities as enduring research
10 organizations in Montana.

11 (11) "Portfolio company" means a startup or expansion
12 stage company that has received a seed capital project loan
13 from the board.

14 (12) "Private sector" means any entity or individual,
15 not principally a part of or associated with a governmental
16 unit, that is associated with or involved in commercial
17 activity.

18 (13) "Research and development project" means a science
19 and technology development project that falls into the
20 category of research capability development, applied
21 technology research, or technology transfer and assistance.

22 (14) "Research and development project loan" means a
23 science and technology development project loan entered into
24 between the board and a loan recipient for a research and
25 development project.

1 (15) "Science and technology development project" means
2 either a seed capital project or research and development
3 project designed to discover, develop, transfer, utilize, or
4 commercialize existing or new, innovative technology in
5 order to strengthen and enhance economic development in
6 Montana.

7 (16) "Science and technology development project loan
8 agreement" or "loan" means an agreement entered into between
9 the board and the loan recipient of a seed capital project
10 loan or a research and development project loan that:

11 (a) creates a debt relationship between the parties;

12 (b) provides for a financial return to the board;

13 (c) provides economic development potential to the
14 state; and

15 (d) contains the applicable provisions and terms
16 required by this chapter.

17 (17) "Seed capital project" means a startup capital
18 project or expansion capital project.

19 (18) "Seed capital project loan" means a science and
20 technology development project loan entered into between the
21 board and a loan recipient for a seed capital project.

22 (19) "Startup capital project" means a science and
23 technology development project that assists a company in
24 initiating commercial operations.

25 (20) "State" means the state of Montana.

(21) "Technology transfer" means a two-way process by which ideas or inventions for processes or products developed in a research program, usually on a laboratory or pilot-plant scale, are converted to commercial use.

(22) "Venture capital company" means a partnership, corporation, or other business entity engaged in raising funds from investors and earning a financial return for those investors by making equity or quasi-equity investments in new or expanding business.

~~(22)~~(23) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 5. Section 90-3-305, MCA, is amended to read:

"90-3-305. (Temporary) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board

from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) Any time the balance of the science and technology development account exceeds \$50,000, the board shall transfer the amount of the balance in excess of \$50,000 to the general fund. (Terminates June 30, 1993--sec. 3, Ch. 9, Sp. L. January 1992.)

90-3-305. (Effective July 1, 1993) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) The department may use all payback funds deposited in the account to cover administrative costs of programs authorized under this chapter. Payback funds must be used to cover administrative costs before the funds received from the board of investments under 17-6-201(8) are used."

Section 6. Section 90-3-505, MCA, is amended to read:

"90-3-505. Research and development project -- goals.

(1) The board may make a research and development project loan upon a determination by the board that the proposed project meets the loan criteria established in 90-3-502 and 90-3-506 and that the project meets one of the goals established in subsection (2).

(2) The goals of the research and development project loan program are:

(a) to significantly upgrade existing research capabilities within the state's research and development institutions and organizations;

(b) to provide financial support to individual research projects that have significant potential to:

(i) advance technology development in the state; or

(ii) be readily commercialized upon completion of the research phase; or

(c) to facilitate the process of transferring research from the laboratory to the commercial marketplace; or

(d) to enhance the competitiveness of Montana's small and medium-sized firms in the national and international markets by stimulating the productivity and modernization of the firms.

(3) These goals may be accomplished by:

(a) supporting the advanced technology centers of

excellence program that will institutionalize cooperative arrangements between the public sector and the private sector and significantly build on existing research and development capabilities;

(b) providing financial support for individual research and development projects that are at a preprototype or early stage but that hold significant potential for future commercial success;

(c) providing financial support for the development of advanced research capabilities within the state's university system through the acquisition of facilities, equipment, or personnel and for the development of a university-based technology transfer program;

(d) facilitating the flow of information to technology-based entrepreneurial businesses in the state to assist those businesses in reaching their full commercial potential; or

(e) improving the information and resources available to entrepreneurs in the state who are involved in commercialization of innovative products and processes; or

(f) fostering competitiveness, productivity, and modernization of Montana firms, farms, ranches, mills, and mines."

Section 7. Section 90-3-523, MCA, is amended to read:

"90-3-523. Seed capital project loan agreement --

1 specific requirements -- payback. (1) Except as provided in
 2 90-3-519, in addition to the loan agreement provisions
 3 required in 90-3-522, a seed capital project loan must be
 4 structured as contracted debt that includes but is not
 5 limited to the following terms:

6 (a) an interest rate set at the level that provides a
 7 return to the board, from paybacks by all of its portfolio
 8 companies, in an amount at least equal to the principal
 9 amount of the loans and that provides for a market rate of
 10 return when considering the overall benefit to the state
 11 derived from the projects;

12 (b) a provision in the note that may defer debt service
 13 until maturity of the note, the term of which may not exceed
 14 8 years;

15 (c) a loan amount that may not exceed \$350,000 in any
 16 one round of financing. Successive rounds of financing in
 17 which the board participates for any one company may not
 18 occur within a 9-month period unless the board determines
 19 that there is an overriding financial benefit to the board's
 20 portfolio. The total amount that may be loaned to any one
 21 company may not exceed \$750,000 10% of the seed capital
 22 funds managed by the board.

23 (d) a provision that the note becomes due in full upon
 24 dissolution or liquidation of the company.

25 (2) (a) In addition to the provisions in 90-3-522 and

1 subsection (1) of this section, a seed capital project loan
 2 agreement may provide for any of the following:

3 (i) a convertible debenture;
 4 (ii) a warrant held by the board; or
 5 (iii) a warrant held by a third party for the benefit of
 6 the board.

7 (b) The board itself may not convert the convertible
 8 debenture, exercise the warrant, or hold stock acquired upon
 9 any conversion or exercise."

10 **Section 8.** Section 90-3-524, MCA, is amended to read:

11 "90-3-524. Research and development project loan
 12 agreement -- specific requirements -- payback. In addition
 13 to the loan agreement provisions described in 90-3-522, a
 14 research and development project loan agreement must be
 15 structured as contracted debt with the following terms:

16 (1) The agreement must include provisions calling for a
 17 payback of at least two times the original loan amount paid
 18 as a percentage of the income stream derived from the sale
 19 or other commercialization of products or processes
 20 developed with the board's financing. ~~This percentage rate~~
 21 ~~may not exceed 5% as negotiated by the parties.~~

22 (2) The payback on a research and development project
 23 loan for a technology transfer and assistance project may be
 24 made pursuant to subsection (1) or may be realized in terms
 25 of indirect benefits related to the goals and criteria of

the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. The payback on a research and development project loan for a technology transfer and assistance project made from the permanent coal tax trust fund may not be repaid in terms of indirect benefits."

Section 9. Section 90-3-525, MCA, is amended to read:

"90-3-525. Deposit of payback. (1) The payback of principal and earnings on a research and development project loan from a source other than the Montana permanent coal tax trust fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(2) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use by the board department to cover the administrative costs of loans made pursuant to this chapter. The paybacks include all those received after January 1, 1989.

(3) All paybacks of earnings to the board from loan agreements using permanent coal tax trust funds must be deposited to the state special revenue fund to the credit of

the science and technology development account created in 90-3-305 to pay the department's administrative and accounting costs associated with the loans. The balance must be deposited to the permanent coal tax trust fund within 30 days."

NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].

NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

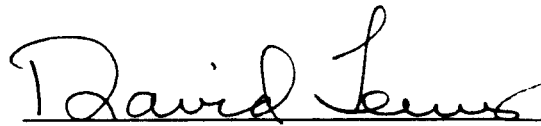
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0394, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: A bill to revise the Montana Science and Technology Development financing act, authorizing investment from the permanent coal tax trust fund and creating the Montana Science and Technology Advisory Council.

ASSUMPTIONS:

1. This bill authorizes MSTA to invest a portion of the permanent coal tax trust fund for economic development under its Science and Technology Development Seed Capital Project Loan program, but with monetary return-on-investment as a priority. Under this management requirement, MSTA will utilize approximately \$2 million per fiscal year for the years beginning in FY94 through FY97. For purposes of this note, it is assumed these funds will be loaned at the beginning of each fiscal year.
2. Dollar-for-dollar matching funds are required for all seed capital financing by MSTA.
3. MSTA will invest its portion of the permanent coal tax trust fund to receive a market rate of return. Rates are assumed to average 8.07% in FY94 and 8.39% in FY95 (HJR3).
4. Earnings on the permanent coal tax trust fund are divided, with 100 percent of the principal returned to the permanent coal trust fund, 15 percent of the interest earnings to the state equalization aid account, and 85 percent of the interest earnings to the general fund.
5. The proposed bill requires deposit of payback earnings from loan agreements utilizing permanent coal tax trust funds to be deposited in a state special revenue account to the credit of science and technology development to reimburse the agency for costs of administering the programs with Title 90, Chapter 3 to be paid first and the balance deposited to the permanent coal tax trust fund within 30 days. A payback of \$150,000 is expected in FY95.
6. Current law represents the Executive budget recommendation, which was funded with general fund revenues. Under the proposal, the program will be funded with coal trust investment income and development account revenues.
7. Coal trust interest earnings are estimated to total \$47.432 million in FY94 and \$48.698 million in FY95 (HJR3).
8. The balance of the permanent coal trust will be \$536.490 million at FYE94 and \$556.479 million at FYE95 (LFA Budget Analysis).

(continued on next page)

 2-4-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-9-93
STEVE BENEDICT, PRIMARY SPONSOR DATE
Fiscal Note for HB0394, as introduced
HB 394

FISCAL IMPACT:

Expenditures:

	FY94			FY95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	303,431	303,431	0	304,417	304,417	0
Operating Expenses	187,383	187,383	0	185,798	185,798	0
Equipment	<u>4,100</u>	<u>4,100</u>	<u>0</u>	<u>4,100</u>	<u>4,100</u>	<u>0</u>
Total Expenditures	494,914	494,914	0	494,315	494,315	0
Seed Capital Project Loans	0	2,000,000	2,000,000	0	2,000,000	2,000,000

Funding:

General Fund	494,914	0	(494,914)	494,315	0	(494,315)
Permanent Coal Tax Trust Fund	0	2,000,000	2,000,000	0	2,000,000	2,000,000
Coal Trust Interest Income	0	432,464	432,464	0	218,815	218,815
Science & Technology Development Act.	<u>0</u>	<u>62,450</u>	<u>62,450</u>	<u>0</u>	<u>275,500</u>	<u>275,500</u>
Total Funding	494,914	2,494,914	2,000,000	494,315	2,494,315	2,000,000

Revenues:

Permanent Coal Tax Trust Fund	536,490,000	534,490,000	(2,000,000)	556,479,000	552,479,000	(4,000,000)
Coal Trust Earnings	47,432,000	46,838,100	(593,900)	48,698,000	48,143,600	(554,400)

Allocation of Revenues:

General Fund	40,317,000	39,812,200	(504,800)	41,393,000	40,921,800	(471,200)
School Equalization Account	7,115,000	7,025,900	(89,100)	7,305,000	7,221,800	(83,200)

Net Impact:

General Fund	9,886	(23,115)
School Equalization Account	89,100	83,200

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Per the assumptions, \$4 million of additional loans are anticipated during the 1997 biennium; compounding the interest loss to the general fund and school equalization accounts. MSTA expects paybacks from previous investments at levels sufficiently large to reduce the amount of coal trust interest needed for administration to approximately \$100,000.

HB 394

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 11, 1993,
at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (R)
Rep. Doug Wagner (R)

Members Excused: REP. JOE BARNETT

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 394, HB 464, HB 513 AND SB 161
Executive Action: HB 394, HB 464, HB 513 AND SB 161

HEARING ON HB 394

Opening Statement by Sponsor:

REP. STEVE BENEDICT, House District 64, Hamilton, said HB 394 is
presented on behalf of the Montana Science and Technology

Alliance (MSTA). He said MSTa was created by the 1989 Legislature and was given management authority over an initial \$7.5 million in coal tax trust fund investment capital. In 1991, MSTa was given management authority over an additional \$5.1 million in coal trust fund money for research and development programs (R & D) involving units of the university system and other high tech research projects around the state. He said the original \$7.5 million is called the seed capital program and the \$5.1 million is the R & D program. HB 394 will authorize an additional management authority over \$8 million in investment money for the seed capital program and another \$3 million for the R & D program. He there has been some question when these programs would become self-sustaining and require less general fund money for administration and program overhead. He said this bill is a landmark for science and technology. It removes all of the administration and overhead from the general fund. He said that \$450,000 in net savings to the general fund are in this bill, because science and technology can now start generating the money internally from its investments. He distributed amendments and went over them step by step with the committee. Section 1 has been deleted from the bill because it created a Science and Technology Advisory Council that is already in operation under the authority of the Governor. Section 7 will guarantee minimum annual payback of \$250,000 on the R & D portion of the loans and will start on June 30, 1994. This part had already been agreed upon between the Commissioner of Higher Education and the Board of Science and Technology.

Proponents' Testimony:

REP. CHASE HIBBARD, House District 46, Helena, informed the committee when the 1985 Legislature created this alliance, he served as its second chairman from January of 1989 to January 1991. The main purpose of the council was to reduce Montana's dependence upon its natural resource-based economy by promoting diversification into applied technology and high-tech industries. He presented written testimony. EXHIBIT 2

REP. DIANA WYATT, House District 37, Great Falls, said she supports HB 394. She said that Donna McLaughlin, McLaughlin Research Center Great Falls, and a beneficiary of this program, also supported HB 394. Also Lelam Walker, Ardie Aiken and Dr. Carlson wished to be on record in support of HB 394. She said they have currently dispersed \$1.7 million of the funds for their building program. She urged strong support for HB 394.

Carl Russell, Executive Director of Montana MSTa, gave technical information why the alliance has presented this bill. He said it grants powers to manage additional monies, and emphasized this money is not from the coal trust. It is management authority and will be invested by the Board of Investments. He said under their authority, they will allocate the money to a company or a project that is then placed on a high-risk investment basis. He said this program is a venture

capital program for research and development type of investments. The additional funds will be placed into the program in the next 2 - 4 years, because the \$7.5 million for the seed capital funds will be depleted in 1993.

Jon Marchi, small businessman, said he is also the director of several networks and a corporation. He presented written testimony which he read. **EXHIBIT 3**

Clyde Neu, self, said he the is founder of four small businesses in Montana over the last four years. He distributed written testimony. **EXHIBIT 4**

Robyn Young, Chief Executive Officer of Development Corporation of Montana (DCM), distributed testimony in support of HB 394. **EXHIBIT 5**

Rick Hill, representing the Governor's Office, said he is also a member of the MSTA Board. He said HB 394 is asking for authority to invest coal tax dollars and not to spend it. The dollars that are leveraged with, i.e., seed capital program, are not loans or grants, but other private capital investments. He said the Governor's office is in strong support for the continuation of the MSTA program.

John Hutchinson, Commissioner of the University System of Higher Education, said they rise in support of HB 394. He said university-based research is a major engine of economic development. They are reaching a \$40 million a year annual operation in their research and development enterprise and give to the state about \$1.7 million in income taxes from those individuals who are working on those projects. He said they endorse the amendment for the \$250,000 payback to the coal tax trust fund. He said this money comes from patent licensure, royalty income, and other sources within the university system. He emphasized this money is not taken from money that is earmarked for instruction.

Sam Hubbard, Deaconess Research Institute, Billings, said the institute had received funding from the Alliance in the last biennium. The funding was instrumental in the research of the osteoporosis program. The institute expects a modest payback from this research before the end of March 1993. He hoped the committee would give HB 394 a do pass recommendation.

Walt Hill, Director of the Montana Biotechnology Center, and member of MSTA, said through this bill, the Biotechnology Center will be an essential element to any economic growth that will happen in Montana. He urged support for HB 394. **EXHIBIT 6**

James Tutwiler, Montana Chamber of Commerce, said the Chamber supports HB 394. He said that Montana's growth in the last several years has been less than 2 percent of the projected growth, and well below the national growth. There will be some

highly technical jobs lost in Montana in the next 10 years, especially in the western part of Montana.

Bob Swenson, Vice President For Research at MSU, said he just returned from Washington D.C. and the top priority of the Clinton-Gore administration is SB 4, introduced by **SEN. GEORGE MITCHELL**. The title of the bill is The National Competitiveness Act, and the purpose of the bill focuses on industrial modernization technology transfer economic diversification and development. He said one of the programs now funded by seven federal agencies is the UPSCORP program. These seven agencies overlap with the seven economic focus groups identified in the action agenda of the MSTA.

Sam Worcester, Center for Advanced Mineral Processing (CAMP), Montana Tech, gave a summary of the major technical role played by CAMP in their efforts to obtain \$3,500,00 for the Mine Waste Pilot Program for SE in 1991 and an EPA sponsored program totaling \$646,000 for the recovery of metal values from mining, smelter, and machining wastes. He said a new \$250,000 DOE program was awarded to Montana Tech in January 1993, and calls for a study of Molten Metal/Slag Interactions and Metal Melting Technology as applied to waste processing. **EXHIBIT 7**

Becky Mahurin, MSTA, MSU, said she worked on the governing board of MSTA. She has seen this program in action from all three sectors that are critical to the success of the program. All of the elements are essential for the R & D program and the seed capital funding is part of the continuum that will result in the growth of more companies in Montana, appropriate economic development for the state, and return of revenue to MSTA to pay back the loans to the university system. She urged support for HB 394. **EXHIBIT 8**

Claude Matney, President of Matney-Frantz Engineering, P.C., MATWEY, said he represents a group of 17 engineers and geologists doing environmental restoration work. He said they benefit directly from the Engineer and Research Center in Bozeman and their support through MSTA. He urged a do pass. **EXHIBIT 9**

Ralph Johnsrud, Optima Industries, said he concurs with previous testimony, and without MSTA the industry would not be in Montana.

Wendell Guthrie, UltraFem Inc., said he supports HB 394. He presented written testimony on the industry's development in Montana because of MSTA. **EXHIBIT 10**

Larry Granchett, UM/MEC, said he has been asked to go back to the Harvard Fabs and Internship Conference to present their model. He distributed information on MEC and their contacts. **EXHIBIT 11**

Bob Kearns, President of Mycotech, Butte, said Mycotech is in Montana only because of the investment through MSTa. He urged a do pass for HB 394.

Bob Ivy, Chicken business, Hamilton, said they have a payroll of \$2 million a year, and a market cap of \$150 million a year. He urged support of HB 394 so more businesses can be created in Montana.

Ken Thuerbach, self, Victor, said out of the coal trust fund of \$500 million, it doesn't hurt to ask to put 1½ percent of that money back into growing Montana companies on an investment basis. He urged the committee to support HB 394. EXHIBIT 12

Bill Senecal, Vice President for TMA Technologies, Inc. Bozeman, said they were invested in by MSTa and are primarily a portfolio company for companies like Fortune 100.

Opponents' Testimony:

None

Informational Testimony:

Dixie F. Swenson faxed information to the committee from Gallatin Development Corp. in support of HB 394. EXHIBIT 22

Richard C. Potter, Ph.D., President of Nurture, Inc., presented written testimony in support of HB 394. EXHIBIT 23

Questions From Committee Members and Responses:

REP. ELLIS asked Rick Hill about current Section 6, on page 14, and wanted to know if research money would be used for agriculture research, and if so, is it being coordinated with the university system? Mr. Hill said they have seed capital companies that are using and marketing agricultural products. The funding used at the university through the entrepreneur centers may include: agricultural products, biotechnology, environmental remediation, or anything that deals with the industry with concerns that are related to Montana. He said they have seed capital companies that are taking agricultural products to market. The funding used with the universities through the entrepreneur centers are intended to deal with industries with concerns as they relate to Montana.

Carl Russell replied to REP. ELLIS'S comments. Mr. Russell said research is presently going on with some MSTa funds and federal and state monies for canola, safflower, barley and other oat products in the university system, and he expects more companies like these to come in to Montana in the couple of years.

Closing by Sponsor:

REP. BENEDICT closed stating that HB 394 is an investment in the future economic development of Montana. He said if Montana does not change its business climate and provide high tech opportunities for Montana's young people to find good paying jobs, they will be leaving the state. He said every dollar that is invested now means a brighter future for Montanans. He asked for a do pass as amended consideration on HB 394.

EXECUTIVE ACTION ON HB 394

Motion: REP. PAVLOVICH MOVED HB 394 DO PASS.

Discussion: REP. DAILY moved to adopt the amendment. EXHIBIT 1

Motion/Vote: REP. BACHINI called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. PAVLOVICH MOVED HB 394 DO PASS AS AMENDED. Voice vote was taken. Motion carried unanimously.

Vote: HB 394 DO PASS AS AMENDED. Motion carried 17 - 0.

HEARING ON SB 161Opening Statement by Sponsor:

SEN. GREG JERGESON, House District 8, Chinook, said one of the economic development efforts from the 1991 Legislature, was the passage of the Micro Business Development Act, which is a program to provide capital resources to help establish very small businesses. The program has two issues: 1) to be able to make loans to these small businesses; and 2) to provide the type of counseling, advice and guidance necessary to establish a business plan that will prosper. He said it used some money from the coal tax trust fund and transferred it to make it available to loan to microbusiness development corporations in Montana. He said that SB 161 will help set up 12 microbusiness development corporations throughout Montana. There was an advisory committee established to oversee the operation through the Department of Commerce. He said there are four legislators that are connected to the advisory committee as non-voting members. He said since the passage of the act, they have found that some of the statutes need to be changed to make it work better, and that is the purpose of this bill. SB 161 will remove some minimum interest rate on loans. Currently, the program was set up for the Department of Commerce to make the loans from the coal tax trust fund to the microbusiness corporation who in turn would then loan the money to the small businesses. The department needed to receive at least 3 percent interest on these loans. He said in the last two year period, the interest rates fell so low, so when

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE 2-11-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT			✓
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

EXHIBIT 1
DATE 2-11-93
HB 394

Amendments to House Bill No. 394
First Reading Copy

Requested by Representative Benedict
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 9, 1993

1. Title, lines 4 and 5.

Strike: "CREATING A SCIENCE AND TECHNOLOGY ADVISORY COUNCIL;"

2. Page 1, line 13 through page 2, line 14.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 7, line 2.

Strike: "\$5.1"

Insert: "\$8.1"

4. Page 17, line 8.

Following: line 7

Insert: "(3) The agreement between the board and the commissioner of higher education on the payback of a research and development project loan must guarantee a minimum annual payback of \$250,000, commencing on June 30, 1994."

5. Page 18, lines 6 through 9.

Strike: section 10 in its entirety

Renumber: subsequent sections

TESTIMONY

February 10, 1993

TESTIMONY IN SUPPORT OF HB394, WHICH CREATES A SCIENCE AND TECHNOLOGY ADVISING COUNCIL, EXTENDS INVESTMENT AUTHORITY FROM THE PERMANENT COAL TAX TRUST FUND, AND REVISES FINANCING AGREEMENTS TO GIVE THE SCIENCE AND TECHNOLOGY ALLIANCE.

AS BACKGROUND, THE MONTANA LEGISLATURE CREATED THE SCIENCE AND TECHNOLOGY ALLIANCE (ALLIANCE) IN 1985. I SERVED AS ITS SECOND ^{Chairman} ~~PRESIDENT~~ FROM JANUARY OF 1989 TO JANUARY 1991. ONE OF THE PURPOSES WAS TO REDUCE MONTANA'S DEPENDENCE UPON ITS NATURAL-RESOURCE BASED ECONOMY BY PROMOTING DIVERSIFICATION INTO APPLIED TECHNOLOGY AND HIGH-TECH INDUSTRIES.

THE TRENDS IN MONTANA'S ECONOMIC PERFORMANCE OVER THE LAST DECADE VERSUS NATIONAL AVERAGES REFLECT THE CONTINUED NEED FOR THE EFFORTS OF THE ALLIANCE. IN THE LAST DECADE, GROWTH IN MANY OF MONTANA'S MAJOR INDUSTRIES - TOURISM AND TRAVEL (EVEN THOUGH THEY GREW 350%), MINING AND LUMBER - LAGGED BEHIND AVERAGE NATIONAL GROWTH IN THOSE AREAS. IN ADDITION, MONTANA SAW A DECLINE IN ITS OIL AND GAS INDUSTRY. THESE FACTORS, COMBINED WITH CORRESPONDING LOSSES IN BASIC SECTOR JOBS AND POPULATION, KEPT GROWTH OF PER CAPITA INCOME IN MONTANA AGAIN BEHIND NATIONAL AVERAGES.

IN ORDER FOR MONTANA TO BECOME LESS DEPENDENT UPON OUR RESOURCE-BASED ECONOMY AND MOVE PROGRESSIVELY TOWARD GROWTH PARALLELING THAT OF OTHER STATES AND THE NATION, WE NEED TO FOSTER THE GROWTH OF APPLIED TECHNOLOGY AND VALUE-ADDED INDUSTRIES IN OUR ECONOMY. IT IS ESTIMATED THAT ALL ECONOMIES LOSE 8-10% JOBS ANNUALLY, JOBS THAT MUST BE REPLACED. IN THE UNITED STATES TODAY, THE MAJORITY OF THOSE JOBS ARE COMING FROM APPLIED TECHNOLOGY INDUSTRIES.

THE ALLIANCE CONTINUES TO BRIDGE THE GAP FROM A RESOURCE-BASED ECONOMY TO A MORE INNOVATIVE AND GROWTH-ORIENTED ECONOMY. ONE OF THE ALLIANCE'S ACTIVITIES IS THE RESEARCH AND DEVELOPMENT PROGRAM, WHICH INVESTS IN RESEARCH PROJECTS IN THE UNIVERSITY SYSTEM, THAT HAVE COMMERCIAL POTENTIAL FOR MONTANA, AND IN THE TRANSFERENCE OF TECHNOLOGY FROM THE RESEARCH LAB TO THE MARKETPLACE. THE BILL'S AMENDMENTS ADD \$3MM FOR RESEARCH AND DEVELOPMENT. ANOTHER ACTIVITY IS THE SEED CAPITAL PROGRAM, WHICH PROVIDES VENTURE CAPITAL FUNDING FOR THE ESTABLISHMENT OF HIGH-TECH COMPANIES IN MONTANA. TOWARD THIS GOAL, HB394 WOULD ALLOCATE MANAGEMENT AUTHORITY OF AN ADDITIONAL \$8MM FROM THE PERMANENT COAL TAX TRUST FUND UNTIL 6/30/97 (OR APPROXIMATELY \$2MM ANNUALLY) TO THE SEED CAPITAL PROGRAM. HOUSE BILL 394 FURTHER CLARIFIES AND DEFINES

EXISTING ALLIANCE GOALS IN TERMS OF TECHNOLOGY TRANSFERS AND COMPETITIVENESS, PRODUCTION AND MODERNIZATION IN MONTANA.

FINALLY, HB394 GIVES THE ALLIANCE ADDITIONAL FLEXIBILITY BY REVISING ITS FINANCING AGREEMENTS. THIS BILL ALLOWS A FINANCING ROUND TO OCCUR WITHIN A 9-MONTH PERIOD. THE BILL ALSO ALLOWS AN INCREASE IN THE MAXIMUM INVESTMENT IN ONE COMPANY TO 10% OF AVAILABLE FUNDS (OR \$1.5MM UNDER THIS BILL) FROM THE EXISTING LIMIT OF \$750M. FINALLY, THE BILL ALLOWS THE ALLIANCE BOARD TO NEGOTIATE PAYBACK FROM RESEARCH AND DEVELOPMENT PROJECTS. CURRENTLY, PAYBACK IS SET AT 5% OF THE INCOME GENERATED BY A PROJECT, WHICH IS CONSIDERED LOW BY INDUSTRY STANDARDS.

IN CLOSING, HB394 SEEKS TO STRENGTHEN THE ALLIANCE'S ABILITY TO EFFECTIVELY DECREASE MONTANA'S RELIANCE ON A RESOURCE-BASED ECONOMY BY FACILITATING THE INCORPORATION OF APPLIED TECHNOLOGY AND HIGH-TECH INDUSTRIES INTO OUR ECONOMY.

Chase Hibbard

CH/eb

EXHIBIT 2
DATE 2-11-93
HB 394

Testimony of Jon Marchi
As a Proponent with Amendments
House Bill 394- Science & Technology
Business & Economic Development Committee
February 11, 1993 8:00 AM

Mr. Chairman,

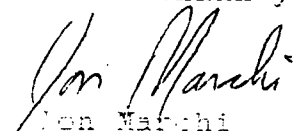
Members of the Committee, for the record my name is Jon Marchi. In my testimony today I represent myself as a small businessman in Montana and as a director for the following Montana businesses and organizations: the Montana Private Capital Network, the Montana Entrepreneurship Center, the Montana SEA Advisory Council and the Montana Small Business Investment Corporation.

I am testifying in favor of HB 394 for the following reasons:

1. We have a shortage of investment capital and a lack of current technological information in our state. Both are necessary for our small businesses to be competitive and to keep growing and multiplying. Science & Tech has done an amazing job of providing the critical seed capital to many of our future job creating corporations. The Montana Entrepreneurship Center (a brain child and partially funded affiliate of MSTA) has assisted in bringing current technological information to over 2000 business people.

2. Besides the Montana Entrepreneurship Center, MSTA has successfully created and funded the Centers of Excellence concept. In just three short years the following Centers of Excellence have generated millions of private and federal dollars that have well exceeded MSTA's funding: NCF Engineering Research Center, Bozeman; Center for Advanced Mineral Processing, Butte; Center of Excellence in Biotechnology, Missoula; Leachness Research Institute, Billings and McLaughlin Research Institute, Great Falls. Not only is Montana receiving a great current return but the future job creating potential is enormous as these centers begin to commercialize their products.

3. Businesses thrive on stability and continuity. Businesses fail because of unstable and unpredictable outside influences. We cannot stop and then try to restart two years or four years from now a program that has been as successful as Science & Tech. Many have called MSTA and all of its spinoffs the best economic development effort our state has to offer. I concur. Please vote for HB 394. Thank you.


Jon Marchi

7700 Valley View Road
Bozeman, MT 59860 382 5470

HIGHLIGHTS OF TESTIMONY of CLYDE W. NEU
as a PROPONENT for HB 394 before the
HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE
February 11, 1993

Mr. Chairman & Members of the Committee:

My name is Clyde Neu. In my testimony today, I represent myself as the founder of four small businesses in Montana over the past fifteen years. I currently am Chairman of the Board of a computer software company in Fromberg, Montana, and I am employed full time by The University of Montana as administrator of its Master's degree program in Business Administration on the Eastern Montana College campus in Billings. I have been very involved over the years in *venture capital financing*, and I have raised over \$3 million dollars of such funds for my various businesses.

I am testifying in favor of HB 394 for the following reasons:

- * Traditionally, our nation & our state have developed some very good programs to address the needs for small business financing; a new *powerful sense of urgency in addressing these needs has developed on the national level*, and in August 1992 in a rare display of bipartisan cooperation during an election year, Congress passed legislation revising the Small Business Investment Company (SBIC) program.

These new changes are the *most significant revisions* to the SBIC program since its inception in 1958; they are so sweeping and potentially attractive that they are likely to give an important "jump-start" to the *stalled private equity investment community* that exists in this nation.

- * This *need for small business financing* has not been lost on Montanans; indeed, with the establishment and funding of MSTA, our state became *one of the leaders nationally* in developing a "seed stage" investment program for promising technology-based companies. Twenty-one other states in the country have business development programs that combined have committed nearly \$150 million in venture capital to such enterprises. Nine other states are at varying points in setting up new programs today.
- * Has our own seed-stage investment program been successful? *Absolutely!* Please allow me to introduce a recent research report done by one of my graduate students during the past four months (titled: An Update on Investment Activity by the Montana Science and Technology Alliance: 1989-1992).

The Findings:

- * With respect to its current portfolio of 14 companies in which *\$4.2 million* has been invested, using widely recognized industry measures of return on investment MSTA can report a *13.5% average annual return* on its investments. This covers all investments since June 30, 1986.
- * With respect to the Coal Tax Trust Funds invested since August 1989 (*\$3.8 million*), the average annual rate of return has been *22%*.

HOUSE BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

Testimony in Support of

HOUSE BILL 394 - SCIENCE & TECHNOLOGY

February 11, 1993, 8:00 A.M.

Mr. Chairman, Members of the Committee, for the record my name is Robyn Young.

I am employed full time as the Chief Executive Officer of Development Corporation of Montana, the President of Montana Community Finance Corporation, and the Secretary/Treasurer of the Montana Small Business Investment Capital Company.

The Development Corporation of Montana is a "for-profit" privately owned venture capital company. DCM was the first Montana Capital Company to be Certified and Qualified and the first to make all of its required investments. DCM also manages the SBA 504 loan program for the state through its non-profit affiliate, Montana Community Finance Corporation. DCM is also providing administrative support to the Montana Small Business Investment Capital Company Board of Directors during their efforts to organize and capitalize a \$5-7 million dollar Small Business Investment Company to provide capital for Montana businesses.

DCM has been involved in the attempts to address the shortage of investment capital for more than two decades. Because of our experience in processing funding requests and other inquiries, we know that there is a tremendous demand for investment capital from entrepreneurial firms. We receive over 150 inquiries per year. The average amount requested is in excess of \$300,000. Because our remaining uninvested capital is tentatively committed towards funding the Montana Small Business Investment Company, we do not expect to make any new investments during 1993 or 1994.

I am testifying in favor of HB 394 for the following reasons:

1. One of the many accomplishments of the MSTA is the construction of a venture capital portfolio which proves not only that there is a demand for investment capital, but that Montana also offers the kind of "deal-flow" that can provide an attractive return on investment. The internal rate of return achieved to date by MSTA on its portfolio will make it easier for us to attract the private capital needed for the Montana Small Business Investment Company. The passage of HB 394 will send a positive message to these potential sources of private capital.

2. The high quality due diligence performed on potential investments by the MSTA provides other investors with the level of confidence that they could not otherwise afford. DCM relied heavily upon the recommendation and due diligence of MSTA in making a recent investment of \$100,000 into one of the MSTA portfolio companies. The MSTA portfolio companies have attracted additional equity from private individuals and firms because of the investors' respect

for the expertise of MSTA. If we are successful in our efforts to raise the private capital needed for operating the Montana Small Business Investment Company, we anticipate that the two funds would co-invest in some of the larger financing arrangements. HB 394 grants MSTA the increased investment authority needed to achieve these benefits.

3. It is common practice in the venture capital industry for the administrative expenses to be paid from the return earned on the portfolio investments. With the increase in investment authority provided by HB 394, MSTA will have the ability to continue investing, increase the size of the portfolio, and thereby achieve greater efficiencies of scale and greater returns for the Coal Trust. Subjecting the MSTA to continued funding from the General Fund when the state is facing severe budgetary constraints threatens the quality and continuity of the programs offered by MSTA and may even jeopardize the financial success of the existing investment portfolio.

4. The seed capital, startup capital, and expansion capital programs offered through the Montana Science and Technology Alliance are currently the only source of institutional venture capital available for Montana businesses. The investments made by MSTA have only begun to mature, and the staff and program have grown in expertise and efficiency. Montana cannot renege on its commitment to provide this much needed risk capital to our business community. MSTA is just now at the threshold of success. Now is not the time to retreat. Neither should we make the mistake of believing that we have done enough. Montana must continue its commitment to the goals and purposes that spawned the Montana Science and Technology Alliance. I urge you to vote in favor of HB 394.

Thank you.

Robyn Young
Chief Executive Officer
Development Corporation of Montana
121 North Last Chance Gulch, Suite D
Helena, Montana
(406) 442-3850

EXHIBIT

6

DATE

2-11-93

HB

394

BIOTECHNOLOGY IN MONTANA

Walter E. Hill, Director, Montana Biotechnology Center

Although it is difficult in these fiscally dismal times to champion an investment for the future, that is precisely what I am doing in this effort. In a nutshell, it is impossible for me to believe that the economic horizon for the State of Montana will ever brighten without biotechnology development. In order for this to take place, we must invest some resources, even at this critical time, to allow this fledgling effort to maintain itself and even grow.

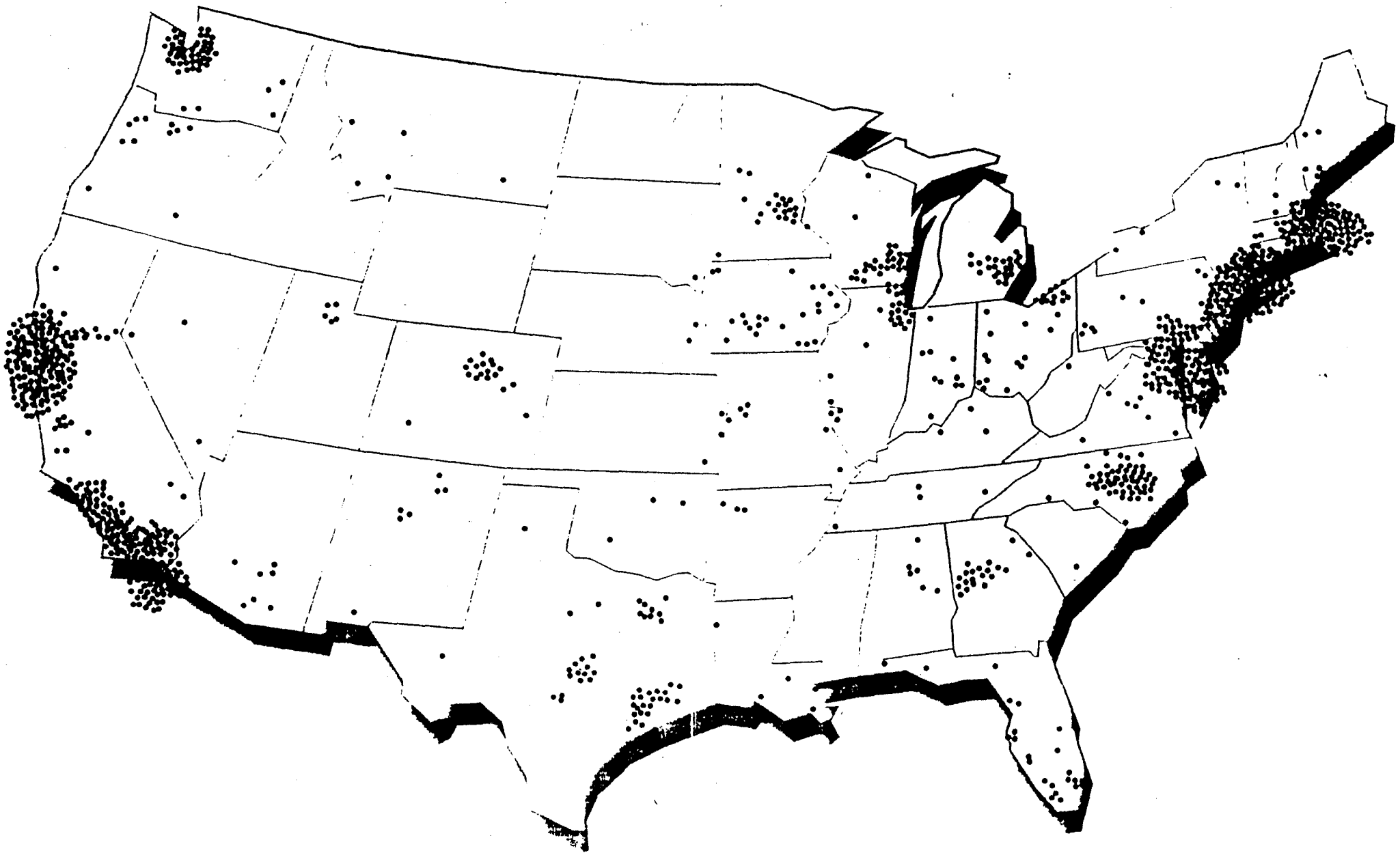
During the last biennium, the Montana Science and Technology Advisory Council has developed a comprehensive plan and action agenda to assess the strengths and weaknesses of science and technology in the State and outline an aggressive and visionary plan for the future. It was determined that biotechnology underlays almost every facet of modern high tech R&D efforts. It is the assessment of the science and technology advisory council that biotechnology is essential in either a direct or peripheral way to almost every other economic area. It is central in the basic research arena and touches agriculture, mining, forestry, manufacturing and remediation industries.

In order to activate this plan to even a small degree, it is essential that biotechnology efforts increase. Healthy biotechnology needs substantial infrastructure. The initial effort in this direction is the Biotechnology Center which has been supported by R&D funding from MSTA since 1987. In the United States, 33 states support biotechnology centers at an average of \$2 million per year. Needless to say, ours is supported at a much more modest level. But if we are going to remain viable in the biotechnology marketplace, we must increase our efforts in this arena and in the area of biotechnology research. To do this, we have to have state support.

Research support is a very clean industry in and of itself. For active researchers it can be shown that for every state dollar invested, \$5-10 are returned to the state in the form of grant support, the majority of which is then reinvested in the state. Additionally, patents will accrue, spin-off companies will be formed and established companies will be attracted. It is essential to seed this effort with investments through the biotechnology center and other mechanisms.

The Biotechnology Center has numerous facets, many of which have added measurably to our visibility as a state and to increased viability of the biotechnology community within the state. It is critical to the economic well-being of the state that this effort not fail and that we keep alive the structure needed to carry out coordination, growth and development of the biotechnology enterprise within the State of Montana. It is really an investment in those who will follow us.

Biotech 93: Landscape of an Industry



**MONTANA BIOTECHNOLOGY CENTER
ACCOMPLISHMENTS**

The Montana Biotechnology Center was funded initially with a \$200,000 grant from MSTA for 15 months in 1988-1989. This grant was used to establish the office and to provide six grants to various investigators in the State to fund biotechnology projects with potential commercial value. Another \$125,000 grant from MSTA for 1989-1991 was used to support and maintain the Center during those years. The MSTA recently provided \$350,000 for the Center for the 1992 calendar year, with a promise of \$400,000 for 1993 if milestones are met. The majority of these funds are to be used to provide funding for research projects with significant commercial potential.

The Center is governed by a Board of Directors which establishes policies and direction for the Center. These are then carried out by or under the direction of the Director. Since it has been established, the Center has sponsored four annual poster exchange conferences to bring together researchers and corporations with biotechnology research interests, each year over 150 individuals participating. The purpose of this annual gathering is to increase communication and interaction between the public or quasi-public-sector researchers and the biotechnology companies in the State.

The Center has aided in publishing a 300 page Montana Bioscience Research Directory which contains full-page listings of the investigators in Montana with expertise in the biomedical area and developed and maintained a data base of all biotechnology companies and key individuals in biotechnology in the state and nation.

Within the State, the Center has stimulated interactions between several biotech firms and many investigators. These interactions include faculty appointments, graduate student stipends, post-doctoral research appointment, contracts and gifts. Additionally, two substantive equipment grants have been instigated and aided by Center efforts. The Center has also spearheaded the biotechnology emphasis in Montana and the Montana State Science and Technology Plan.

The Center is a member of the National Association of Biotechnology Centers and the Association of Biotechnology Companies and as such is a recipient and a contributing member of a growing network of information concerning the industrial growth, employment opportunities, research directions and development plans for both centers and corporations in the Biotechnology area. We represented the State of Montana at the International Biotechnology meeting in San Diego and Washington D.C. and have been active participants in the National Association of Biotechnology Centers. Numerous requests for information about Montana as a potential place to start or to locate a biotechnology company have been answered. More frequent requests concerning the potential of future jobs in biotechnology in Montana have

been answered as well.

The Center has met each of the milestones proposed for each year, with the result that the Center activities are much more organized and focussed than they were at the beginning of 1989. We now have Rules of Governance (By Laws) which give us guidelines. In addition, during this last year, the Governing Board has become much more active in many areas dealing with biotechnology. One area of particular concern was the interaction of the Center with the Universities and vice versa. A special committee was established to discuss and resolve questions concerning the interplay between these units. The result was a very wholesome discussion and exchange which defined the Universities as active players in the Center, but not the controlling elements.

Upgrading the data base containing all Montana, regional and national biotechnology companies, as well as Montana research investigators is continually underway. This data base has helped in some cases to couple individuals with needed expertise to companies needing such expertise.

Finally, and perhaps of most significance, the Governing Board reviewed seventeen proposals for research funding and forwarded six of these for funding by MSTA. The review procedures have been streamlined and improved, providing a substantive peer review process of both the scientific merit and commercial potential of each project.

Newly-funded proposals:

There are three ongoing and two new projects which are presently funded by the Center.

Ongoing:

1. Taxol Proposal - Drs. Stierle and Strobel

The fundamental idea is that a fungus, now named *Taxomyces andreanae*, which is associated with the inner bark of the Pacific Yew tree, when grown in a semi-synthetic liquid medium, produces taxol and related compounds. This is a remarkable finding and has tremendous potential for the pharmaceutical industry. Taxol has been found to be markedly effective in the treatment of certain types of cancer. However, the natural source of this compound, the bark of the yew trees, is a limited resource which could not be expected to sustain the increasing demands for this product. The finding of an organism that can produce this compound has caused considerable interest, both scientifically and commercially. Drs. Stierle and Strobel have published three papers on the subject, and Dr. Strobel was recently awarded a grant from the National Cancer Institute for over \$500,000 to continue work on this

project. Obviously this project is extremely meritorious and has unmeasurable potential for the future. To date, there have been two patents filed on this project, with a possibility of a third as well. In addition, there has been substantial commercial interest, but no contracts have been signed yet.

2. Multiple Disease Resistance in Canola - Dr. Thomas Mitchell-Olds

Using detailed genetic mapping techniques, Dr. Mitchell-Olds and colleagues have found that there are several disease resistance loci in their populations of canola. They have now measured disease resistance in 64 families of canola and are now growing these families for seed. Quantitative genetic analyses to supplement the mapping data are also underway. There is strong quantitative evidence for major disease resistance genes in some of these families. This project is on target and meeting the projected milestones.

3. Improving Safflower through Biotechnology - Dr. William E. Dyer

This proposal was designed to create a safflower cultivar resistant to the herbicide glufosinate. The gene necessary to confer resistance to glufosinate has been obtained from Hoechst AG and this group is now in the process of inserting it into an appropriate plasmid necessary to transform the safflower plants. The transgenic plants will then be selected and regenerated on glufosinate.

Recently funded:

1. Resistance to Barley Yellow Dwarf Virus - Dr. Joseph Anderson

The problem being addressed here is of significant commercial interest and the approaches taken to solve it are clearly outlined and solid. The feasibility of the transgenic approach has already been proven with cucumber mosaic virus resistance produced in tobacco plants by insertion of the replicase gene specific for that virus. A similar approach with the replicase gene for barley yellow dwarf virus in barley should be successful. It appears that this project has the potential for significant payback in the relatively near future.

2. Structure-based Drug Design - Drs. Jean R. Starkey and Edward A. Dratz

This proposal is to develop specific drugs to be used to inhibit cancer metastasis. The concept of this approach is quite novel and unique, since the design of these drugs is centered around structures derived from NMR data. Although these experiments will have a longer developmental time to mature, commercial products, there is tremendous promise in this approach and it should be supported. This is truly excellent science and it is being applied to a nice biological system which has important health ramifications.

Previously-funded Research Projects

In 1989, the Center funded 6 grants for a total value of \$101,500.00 to:

1. Glucosinolates in Brassica - Thomas Mitchell-Olds - University of Montana
2. Designing Small Peptide With Optimal Blocking Activity For Adhesive Receptor-Ligand Interactions - Edward A. Dratz - Montana State University
3. Electrophoresis - Dynamic Fast Atom Bombardment Interface For Biochemical Application - Jan Sunner - Montana State University
4. Bacteria Associated With Marine Invertebrates. Superior Leads For Agrochemicals And Pharmaceuticals - John H. Cardellina II - Montana State University
5. Sensitive Diagnostics For Neonatal Diarrhea - Clifford W. Bond - Montana State University
6. Marketing Maximum Performance Chromatography Software - Richard Ammons - University of Montana

EXHIBIT 10
DATE 2-11-93
HB 394

B I O T E C H N O L O G Y I N M O N T A N A



This document is stored at the Historical Society at 225 North
Roberts Street, Helena, MT 59620-1201. The phone number is
444-2694.

Montana

Center

of

Excellence

in

Biotechnology

MONTANA TECH



Butte, Montana 59701
(406) 496-4101

Center for Advanced Mineral Processing
(406) 496-4193

EXHIBIT 7

DATE 2-11-93

HB 394

February 11, 1993

Chairman Steve Benedict
Business and Economic Development Committee
Montana House of Representatives
State Capitol
Helena Mt 59620

Dear Chairman Benedict and Committee Members:

Thank you for the opportunity to provide the following testimony in support of HB 394. The Center for Advanced Mineral Processing (CAMP, formerly the Advanced Minerals and Hazardous Waste Processing Center of Excellence) was established at Montana Tech in 1989 under the Montana Science and Technology Financing Act. The name was changed in 1992 to more accurately reflect the close support of the Center to the Montana minerals industry. CAMP has been instrumental in establishing the infrastructure necessary to attract outside funding for minerals-related research in Montana. It has also provided the vehicle and the incentive for cooperation between University researchers and small to medium-sized Montana companies on projects which may pay dividends to those companies and to Montana in the future.

A summary of CAMP-related funding activity is attached to this letter to provide an idea of the outside research funding made possible through a modest investment of MSTA funds. From this table it can be seen that an expenditure of less than \$175,000 has provided the opportunity to receive over \$1,900,000 in outside funds, with more being sought in the future. Several specific projects that have benefited from support or exposure by CAMP include:

CAMP played a major technical role, as well as a financial role, in supporting efforts to obtain the \$3,500,000 Mine Waste Pilot Program for MSE in 1991. That program will be funded for an additional \$2,500,000 in the next two years. As now configured, that program will provide \$1,200,000 to the research and educational programs at Montana Tech over four years.

Additional programs resulting from CAMP activities include EPA sponsored programs totaling \$646,000 for recovery of Metal Values from mining, smelter, and machining wastes. A new \$250,000 DOE program awarded to Montana Tech this January calls for study of Molten Metal/Slag Interactions and Metal Melting Technology as applied to waste processing.

Another vital role which MSTA plays in the State's Science and Technology agenda is in providing a source of mandatory matching funds for major federal research grants to the University System, such as the Experimental Program to Stimulate Competitive Research (EPSCoR). During the past two years, major effort has been devoted to enhancing and broadening the research infrastructure among the units of the University System. The recent proposal submittals to NSF and DOE are culminations of these efforts. These successful planning efforts will be for naught without State support through MSTA for the required matching funds of \$2,125,000 for these two programs. Additional EPSCoR proposals are expected to DOD, EPA, and other Federal agencies over the next two years.

In closing, we would like to endorse another recent MSTA activity. We believe the development of the Montana Science and Technology Action Agenda was a major milestone in the economic development of the State. It was a privilege for Sam Worcester to serve on the Mineral Extraction and Processing Focus Group with representatives of the public, mineral industry, government, and the University System. The insights gained through the open discussion which ensued during the development of the recommendations of that group gave all participants a much broader perspective of the problems and the opportunities confronting the mineral industry in Montana.

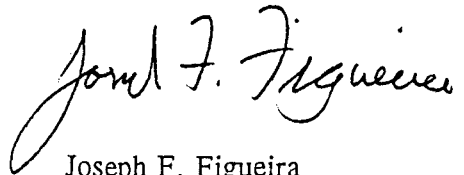
We strongly support the Montana Science and Technology Program and urge your support of HB 394.

Respectfully submitted,



Samuel A. Worcester
Director, CAMP

and



Joseph F. Figueira
Associate Dean, Research
and Graduate Studies

enclosures as stated

SUMMARY OF CAMP-RELATED FUNDING ACTIVITY

January 1993

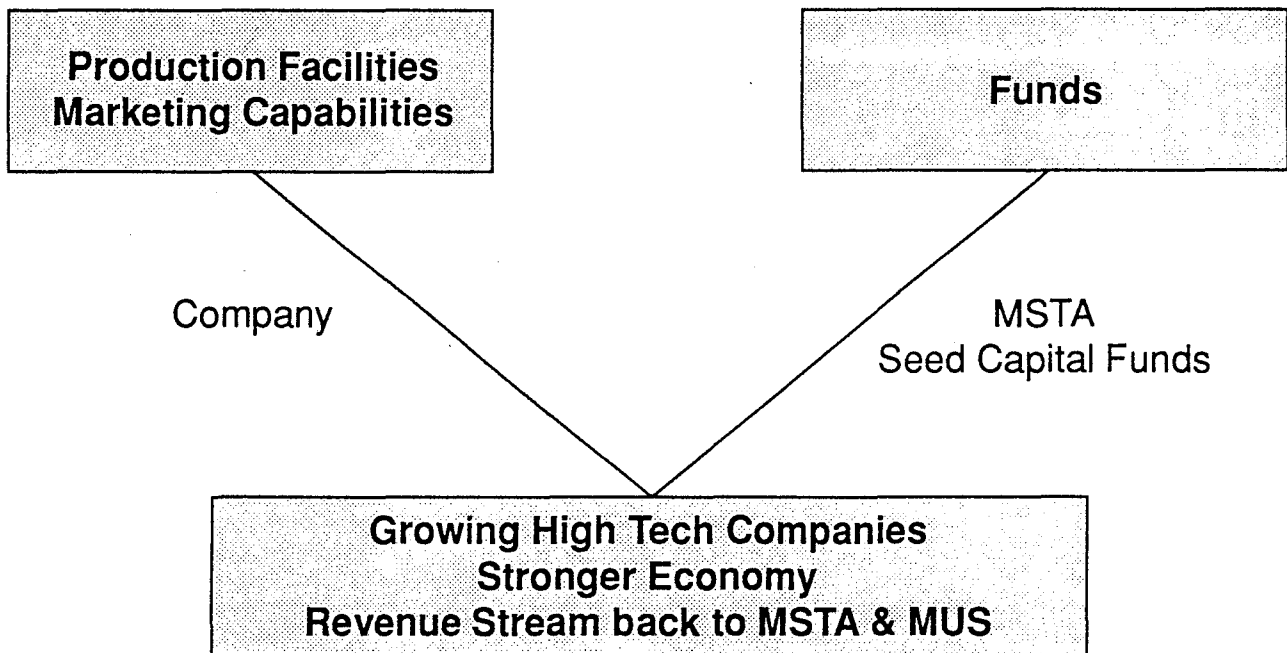
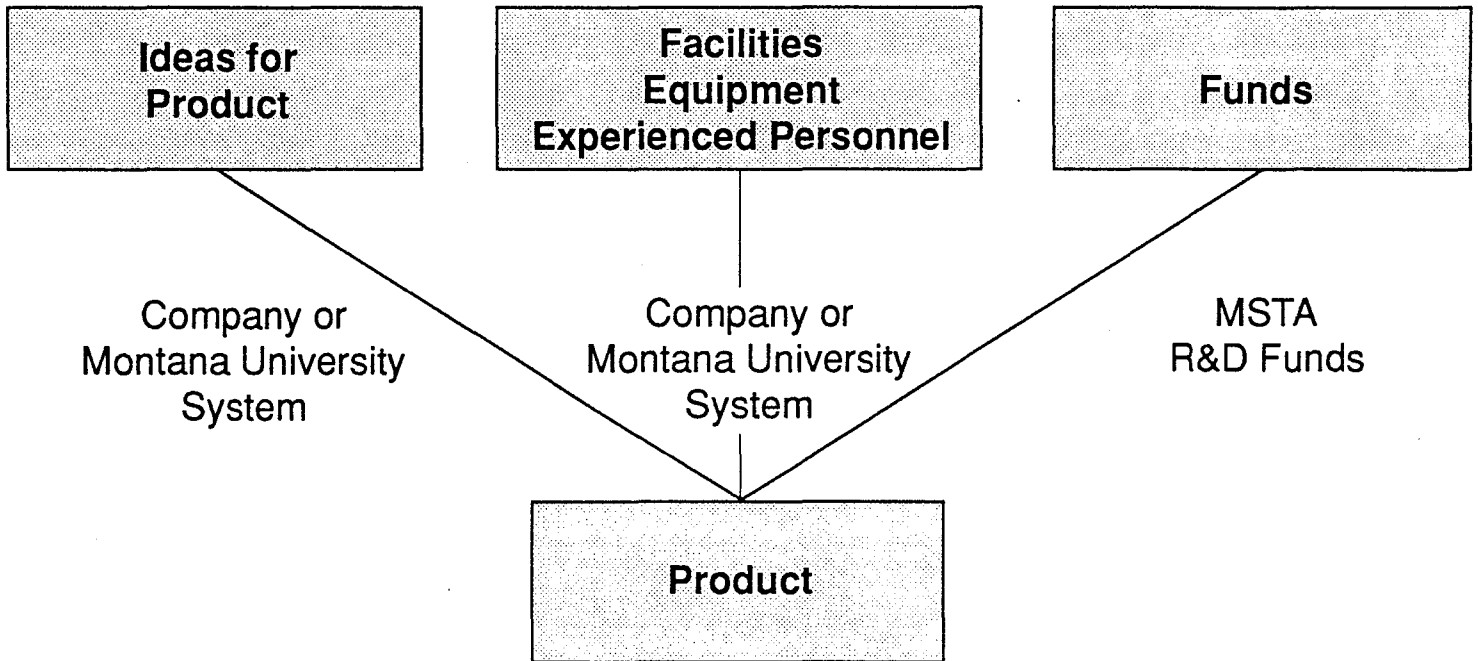
Project	MSTA Funds Spent (\$1,000's)	Non-MSTA Funds Obtained (\$1,000's)		
		Pre 1992	Obtained (in 1992)	Sought (in 1992)
Filamentous Fungi	15*	33	---	---
The Concentrate Tub	1	7	---	---
The Berkeley Pit	10	83	44	---
Biohydrometallurgy	9	14	---	---
Chelation Affinity Chromatography	13*	22	---	---
Montana Technology Innovation Center	10	780+	0	570
Recovery of Metal Values and Toxins (ASH) and Centrifugal Jig	0*	300	150	---
Metal Value Recovery from Electromachining Sludge Waste	0	110	---	---
Removal of Arsenic from Waste Solutions and Copper Smelter Solid Wastes	0	86	---	79
Establishing the Northern Rockies Environmental and Waste-Science and Technology Education Partnership (NEWSTEP)	0	37	0	0
Study of Molten Metal/Slag Interactions and Metal Melting Technology	0	0	0	249
Establishment and Administration	108	---	---	---
TOTAL	\$166	\$1,472	\$194	\$728

* In cooperation with MSTA seed capital companies

+Includes \$730,000 subcontract from \$3,500,000 MSE contract

EXHIBIT 7
DATE 2-11-93
H0394

EXHIBIT 8
DATE 2-11-93
HB 394



MATNEY-FRANTZ ENGINEERING, P.C.
105 West Main Suite A
Bozeman, Montana 59715-4644
(406) 586-3748 (406) 586-8437 (FAX)

EXHIBIT 7
DATE 2-11-93
HB 394

MEMO

February 10, 1993

To: Claud
From: Peter
Subject: Presentation to Legislature in Support of MSTA Funding

Good morning! I am Claud Matney, President of Matney-Frantz Engineering, P.C., located in Bozeman, MT. M-F is a small, but growing environmental consulting firm which specializes in site assesment and restoration, regulatory compliance, and hazardous material management. A large part of our effectiveness is based on our ability to incorporate economically feasible treatment technologies as solutions for today and tomorrow's complex environmental challenges. In the same fashion that emphasis is shifting from end-of-pipe treatment to waste elimination/minimization, many treatment technologies are shifting from the traditional mechanical treatment systems to the cultivation and engineering of natural systems to achieve treatment goals. These natural systems can include wetlands for the treatment of acid mine drainage or the use of microbes for the treatment of soil and groundwater contaminated with petroleum products.

M-F views the MS&TA as an integral link between the areas of academic development of emerging technologies and the entrepreneurial expansion of the emerging technology into a viable economic reality for Montana companies. We recognize that a funding agency such as the MS&TA is necessary if Montana and the United States are to remain competitive on all fronts as the idea of a global community moves closer to reality.

Montana Entrepreneurship Center
Measured Impact on Montana's Business Community

July 1, 1992 through September 30, 1992

(Based on 242 Total Client Sessions)

I. Reach

90% of clients are Montana residents

- 49% of these clients reside in Missoula, Bozeman or Billings
- 51% of these clients reside in other Montana cities

10% of clients are non-residents, organizations located in other states

II. Number of Contacts and Referrals Made to Existing Resources

95 Montana University System Resources

- 18 Student programs
 - 15 Small Business Institute
 - 2 Internship programs
 - 1 Other student programs
- 55 Faculty consultants
- 22 University programs/facilities/equipment

82 Private-Sector Resources

- 15 Private companies
- 18 Professionals/consultants
- 36 Montana Private Capital Network
- 1 Chambers of Commerce
- 3 Banks
- 9 Other private-sector resources

125 Public-Sector Resources

- 66 State government resources
 - 31 State agencies
 - 32 Small Business Development Centers
 - 3 Montana Science and Technology Alliance
- 32 Federal government resources
 - 13 Small Business Administration
 - 19 Other than Small Business Administration
- 27 Local public resources (within clients' communities)
 - 17 Development agencies
 - 5 Local government (city/county) agencies
 - 5 Service agencies

68 Other Resources

- 43 Literature
- 17 Libraries
- 8 Other

370 TOTAL CONTACTS AND REFERRALS TO ALL SOURCES

Montana Entrepreneurship Center
Measured Impact on Montana's Business Community
July 1, 1991 through September 30, 1992
(Based on 1,004 Total Client Sessions)

I. Reach

93% of clients are Montana residents

- 52% of these clients reside in Missoula, Bozeman or Billings
- 48% of these clients reside in other Montana cities

7% of clients are non-residents, organizations located in other states

II. Number of Contacts and Referrals Made to Existing Resources

433 Montana University System Resources

- 143 Student programs
 - 91 Small Business Institute
 - 20 Internship programs
 - 32 Other student programs
- 181 Faculty consultants
- 109 University programs/facilities/equipment

417 Private-Sector Resources

- 111 Private companies
- 94 Professionals/consultants
- 92 Montana Private Capital Network
- 27 Chambers of Commerce
- 28 Banks
- 65 Other private-sector resources

644 Public-Sector Resources

- 354 State government resources
 - 169 State agencies
 - 159 Small Business Development Centers
 - 26 Montana Science and Technology Alliance
- 143 Federal government resources
 - 77 Small Business Administration
 - 66 Other than Small Business Administration
- 147 Local public resources (within clients' communities)
 - 89 Development agencies
 - 34 Local government (city/county) agencies
 - 24 Service agencies

394 Other Resources

- 240 Literature
- 114 Libraries
- 40 Other

1,888 TOTAL CONTACTS AND REFERRALS TO ALL SOURCES

KEN L. THUERBACH
118 MAIN STREET
P.O. BOX 85
VICTOR, MONTANA 59875

TELEPHONE (406) 642-3451

EXHIBIT 12
DATE 2-11-93
HB 394

Testimony of Ken L. Thuerbach
As a Proponent with Amendments
House Bill 394 - Science & Technology
Business & Economic Development Committee
February 11, 1993, 8:00 a.m.

Mr. Chairman and members of the committee:

For the record, my name is Ken Thuerbach. In my testimony today, I represent myself as a private sector businessperson. Also, because of my concern for Montana's economic development and business climate, I give a great deal of my time to the Montana Private Capital Network, to the Montana Entrepreneurship Center, to the Montana Small Business Investment Corporation, and to the Montana Science and Technology Alliance.

I am here to testify in favor of House Bill 394.

I do not believe I need to reiterate the need or the effectiveness of this innovative endeavor. Rather, I wish to state that MSTA is currently "the only game in town" when it comes to providing seed capital or technology transfer to the private sector.

I am personally against most government subsidies and give-away programs; however, MSTA is neither of these. The Coal Trust Fund has been set up for Montana's future and for Montana taxpayers. Through MSTA administration, the Trust is mandated to invest a minimal amount of its investment funds into Montana business opportunities. The MSTA portfolio has shown an above average internal rate of return; and, at the same time, the portfolio has helped to solve one of business's largest problems -- the lack of venture capital

Additionally, the taxpayers of Montana have paid for a huge infrastructure, namely, the university system. Heretofore, the private sector has had very limited access to the resources of the university system; MSTA's Centers of Excellence bridge this gap. Both the state and small business are now being aided with dollars and with technology transfer due to the existence of these Centers.

In its short history, the Montana Entrepreneurship Center alone has made over 2000 resource matches for Montana businesses.

MSTA has an excellent program, proven by its record, and I would urge you to keep this loan program alive. Please vote in favor of HB 394.

Thank you for your time and attention,

Ken L. Thuerbach
P. O. Box 85, Victor, MT 59875

EXHIBIT 13
DATE 2-11-93
HE SB 161



Montana Women's Economic Development Group

This document is stored at the Historical Society at 225 North
Roberts Street, Helena, MT 59620-1201. The phone number is
444-2694.

Annual Report

July 1991 to June 1992

Mr. Chairman, Members of the Committee,

My name is Sandra Oitzinger, and I am President of the Montana Women's Capital Fund, a statewide organization of volunteers dedicated to promoting wider access to capital as a means of economic development and microbusiness support. The Women's Capital Fund was certified on January 18th by the Department of Commerce as the Microbusiness Development Corporation for the region comprised of Lewis and Clark, Broadwater and Jefferson counties. We anticipate having our match raised in early March, enabling us to apply for the Commerce financing to fund the revolving loan fund for our tri-county area. On behalf of the Fund, I would like to thank those here who helped put the microbusiness statute on the books in the first place, and to let you know how enthusiastic we are about launching our program.

I would also like to share with you our strong support for Senate Bill 161 because it makes the Microbusiness statute an even more functional tool for developing microbusiness on both the regional and the statewide level. Our fundraising efforts for the three to one match have been challenging enough, but we believe they may be even more daunting in the rural areas, so the bill's easing of match requirements has our strong support. It would also be enormously helpful to be able to pay the Department a lower rate of interest, which the bill would allow, and we would anticipate being able to reduce our interest rates to our borrowers if our own cost of funds would bump down.

Mr Chairman, I want to advise you that the Women's Capital Fund has recently begun to explore with the Indian Manufacturing Alliance the possibility of a collaborative proposal to become the Montana Statewide Microbusiness Development Corporation. When I polled my 11 member board about whether they would support such a cooperative undertaking, they unanimously agreed that we should indeed see if a joint proposal with the Alliance could be worked on. Although the Board members are aware of the tremendous amount of effort that will be required to cover the state, we are eager to work with the Alliance because we believe the resulting partnership will allow prioritization of the most pressing needs outside of the regions serviced by MBDCs, that is, among Native American businesses. ~~Should the Alliance determine that a partnership with the Fund would not best serve these~~

~~needs, the Fund would stand aside, and would decline to apply as the statewide corporation.~~

I understand that concern has been expressed by existing MBDC's about the section of the bill eliminating sign-offs for the statewide corporation. Recognizing how little funding there is for each region, our position as a regional entity would be to welcome additional programs to help our population. The activities of the statewide loan fund should be based on where need exists, not on where a sign-off will be most readily available.

Mr. Chairman and members of the Committee, I would just like to sum up by saying that we have tremendous opportunities and work awaiting us. I would ask for your strong support of Senate Bill 161, which by streamlining the program, and removing unnecessary impediments to certification, would allow us to more efficiently concentrate on the tasks ahead.

Thank you.

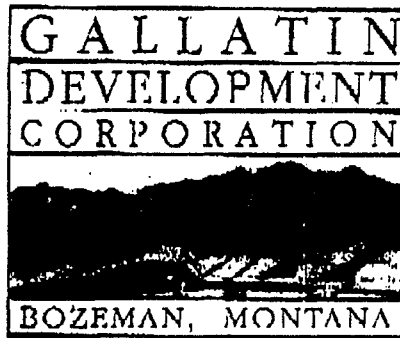


EXHIBIT 22
DATE 2-11-93
HB 394

RE: HB 394

HEARING 8:00 A.M. - THURSDAY, FEBRUARY 11.

Representative Steve Benedict

and

Members of the House Business & Economic Development Committee

The Board of Directors of Gallatin Development Corporation strongly urge your support of HB 394, increasing and extending the investment authority for the Montana Science and Technology Alliance.

MSTA financing is that early stage seed capital which is so critical to technology-based companies which are creating the basic sector jobs of the future. MSTTA has provided financing for Optima Industries, Lattice Materials and TMA Technologies, Inc., all located in the Bozeman area. We are currently working with a number of companies who are considering relocating or expanding to Montana, and the MSTTA program gives us a competitive edge with those companies who have a number of locational options. But perhaps even more important, MSTTA is a critical component in keeping our technology-based companies here in Montana and not losing them to other states.

MSTA financing is also critical to the research and development projects which are the key to effective technology transfer. By providing a mechanism for leveraging research dollars, MSTTA is helping Montana benefit from the significant research capabilities of our scientific community.

The MSTTA program has a key role to play in job creation in Montana and HB 394 provides the flexibility and authority for them to do their job. We urge your favorable consideration.

Dixie F. Swenson
Executive Director

- * **Leverage of MSTA funds:** Private dollars invested in these same 14 companies have totaled **\$17.6 million**, effectively leveraging MSTA's investments by a factor of 4:1 (actually 4.2 to 1). Many of these private dollars have come into these portfolio companies from investors outside Montana. (That's very significant).
- * **Personal Income & Employment:** An independent survey (by this graduate student) of the eight companies that have received investments since 1989 revealed 82 new jobs at six companies (those that reported) with average salaries of **\$36,000 per job**.
- * These are jobs for graduates or our colleges and universities.

THIS PROGRAM IS OUTSTANDING!

WHY EXPAND IT AS PROPOSED IN THIS LEGISLATION?

- * MSTA's seed stage investment program **fills a role that no other financing intermediary can possibly fill** -- invest and wait patiently for liquidity and a return on investment.
- * MSTA has established **tremendous momentum** and today can proudly claim:
 - * An experienced staff of professionals...
 - * A conscientious Board of Directors that exercise proper due diligence in reaching investment decisions.
 - * An Advisory Council of distinguished business leaders in the state dedicated to moving Montana "toward a prosperous twenty-first century."
- * In addition, MSTA has established an important **"liaison"** with out-of-state venture capital companies and other financing intermediaries. Such relationships introduce these companies to Montana and to the business investment opportunities available in this state.

WHY MUST ONE ALSO SUPPORT MSTA'S RESEARCH MISSION?

- * Early stage research, and the commercialization of promising innovative ideas that originate from such research, form the very **backbone of tomorrow's** business environment. This is especially true of **technology based businesses**.
- * These are the types of activities (research & commercialization) that are supported by MSTA funds directed through the various **Centers of Excellence** throughout the state. Again, these **funds are tremendously leveraged** by outside dollars and represent a "good investment" of Montana's trust funds.

February 11, 1993

Rep. Steve Benedict, Chairman
Business & Economic Development Committee
State Capitol
Helena, MT 59620

EXHIBIT 23
DATE 2-11-93
HB 394

Dear Rep. Benedict:

I would very much appreciate you and the members of the Committee lending strong support to the MSTA seed capital program. MSTA made an early investment in our company and, as a direct result, our company managed to survive its formative years and is now entering a significant growth phase.

In fact, the reason I am not able to appear this morning before the Committee is that I am meeting with our investment bankers (H.C. Wainwright & Co. of Boston) to finalize the details of a multi-million dollar private placement of our stock, which is planned for next month. Had it not been for the seed capital program of MSTA, this meeting would never have occurred.

To date, we have attracted almost \$5 million in investment funding (including \$750 thousand from MSTA); by year-end, we expect this figure to have more than doubled. Most of these funds are spent in Montana. A case in point is a \$2 million manufacturing facility presently under construction in Missoula.

We now have 13 employees (versus only 4 employees one year ago), and this is expected to more than double by year-end. All of these jobs are high-paying, with excellent benefits.

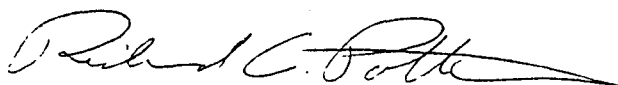
Of course, all of this activity by our company exerts a multiplier effect upon Montana's economy. Concurrent with this, the value of our stock has been steadily appreciating. Given our current rate of progress, the State of Montana will probably reap a significant financial windfall, and stands to ultimately realize a many-fold gain on its original equity investment.

In the absence of early seed funding by MSTA, our company would never have survived; a small startup company in Montana simply does not have access to the national capital markets. Moreover, MSTA provided us with invaluable post-funding administrative assistance which has facilitated our access to these markets.

The development of a startup company requires significant time and patience. We are now in our sixth year; without seed capital from MSTA, we would not have survived beyond our third year—and Montana would not have enjoyed our current significant contributions to the economy. Accordingly, I strongly urge you to support MSTA and its worthy program.

It seems to me that there are no quick fixes for the structural problems ingrained in Montana's economy. The ideal solution for the budgetary shortfall is economic expansion. Beyond question, MSTA has been helping to bring this about—their program works. Please call me at the above number should you be interested in additional information. Thank you for your consideration.

Sincerely,



Richard C. Potter, Ph.D.
President

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec.

COMMITTEE

BILL NO.

HB 394

DATE Feb. 11, 1993 SPONSOR(S)

J. Benedict

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
P. E. Ivy RD 170X 1638 T. W. Ivy HAMILTON MT	SELF	✓	
1602 C&N Knoll Clyde W. New Billings, MT	SELF	✓	
7753 VILLAGE VIEW JON MARCIH ROSUN, MT.	SELF	✓	
CARL RUSSELL 46 N. East Chance Helena MT	MSTA	✓	
Samuel T. Whitford 1 N. East Chance Gulch Helena MT	Business Research Institute	✓	
Ron Klepholce 177 E Front 1 Msla MT	MEDC	✓	
William T. Senecal 19 E. Garfield Bozeman, MT 59715	TMA Technologies, Inc.	✓	
Robyn Young 121 N. East Chance Gulch, Helena	DCM & MSBIC	✓	
Joe Figueira 1315 Diamond Butte	Montana Tech	✓	
Sam Worcester 18 Redwood Drive, Butte	Center for Advanced Mineral Processing - Mt Tech	✓	
Becky Mainwain 5W. Cleveland Bozeman	MSTA, MSU	✓	
Claud Matney 119 W. Cleveland, Bozeman	MATNEY-FRANKE FUGR, PC.	✓	
Kew Thierbaert 118 Main Uctur	SELF	✓	
Karen Holapple Helena	SELF	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Economics

COMMITTEE

BILL NO.

H.B. 394

DATE 2-11-93

SPONSOR(S)

J. Benedict

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bob Keady Butte	Myratech	✓	
Bob Swenson MSA, Bozeman	State EPSGR Program MSU	✓	
Chris Haller	MS Technology Co.	✓	
Wendell Guthrie UltraFem Inc	UltraFem Inc	✓	
Chase Hibbard	Rep district 46	✓	
W. Hill	GNU	✓	
Walt Hill	Biotechnology	✓	
Jim Tutwiler	MT Chamber	✓	
Larry Granichette	UM/MEC	✓	
Eric D. Sanoff	BLOC	✓	

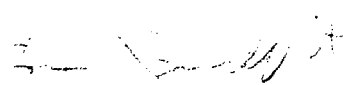
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HOUSE STANDING COMMITTEE REPORT

February 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 394 (first reading copy -- white) do pass as amended .

Signed: 
Steve Benedict, Chair

And, that such amendments read:

1. Title, lines 4 and 5.
Strike: "CREATING A SCIENCE AND TECHNOLOGY ADVISORY COUNCIL;"
2. Page 1, line 13 through page 2, line 14.
Strike: section 1 in its entirety
Renumber: subsequent sections
3. Page 7, line 2.
Strike: "\$5.1"
Insert: "\$8.1"
4. Page 17, line 8.
Following: line 7
Insert: "(3) The agreement between the board and the commissioner of higher education on the payback of a research and development project loan must guarantee a minimum annual payback of \$250,000, commencing on June 30, 1994."
5. Page 18, lines 6 through 9.
Strike: old section 10 in its entirety
Renumber: subsequent section

-END-

SECRETARY-KRISTIE WOLTER

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0383	2/20	3/17		ADVERSE RPT ADOPT		3/24
BRANDEWIE, RAY			GENERALLY REVISE BOARD OF REALTY LAWS; REQUEST AN EDUCATION COUNCIL			
HB0390	2/20	3/09		CONCUR		3/10
QUILICI, JOE			LEAST COST RESOURCE PLANNING FOR UTILITIES			
HB0394	2/22	3/23		CONCUR		3/26
BENEDICT, STEVE			REVISING THE MONTANA SCIENCE & TECHNOLOGY FINANCING ACT			
HB0422	3/01	3/24		CONCUR AS AMENDED		3/29
LARSON, DON			RULES FOR MOBILE HOME PARKS			
HB0433	3/01	3/16		ADVERSE RPT ADOPT		3/22
ELLIS, JR., ALVIN			CLARIFY TYPES OF ANIMALS IN RACES CONDUCTED BY BARS -- SPORTS POOLS ON RACES			
HB0441	2/20	3/18		CONCUR		3/20
REHBEIN, JR., WILLIAM			REVISE WATER WELL CONTRACTOR DISCIPLINARY PROCEDURES			
HB0449	2/20	3/17		CONCUR AS AMENDED		3/22
BROOKE, VIVIAN			EXEMPT FARMER'S MARKET SELLERS FROM FOOD ESTABLISHMENT LICENSURE			
HB0464	2/20	3/10		CONCUR		3/10
FISHER, MARJORIE			EXTEND ANTI-FRAUD & ELIMINATE CERTAIN DUAL REGULATION SECURITY LAWS			
HB0465	3/01	3/09		CONCUR		3/10
RYAN, WILLIAM			REVISE MEDICARE SUPPLEMENT INSURANCE LAWS			
HB0493	2/20	3/10		CONCUR		3/10
DOWELL, TIM			INCREASING PENALTIES FOR VIOLATION OF INSURANCE LAWS			
HB0509	2/20	3/24		TABLED ON 03/24		
PAVLOVICH, BOB			ALLOW INSTRUCTIONS FOR DISPOSITION OF HUMAN REMAINS			

1 HOUSE BILL NO. 394

2 INTRODUCED BY BENEDICT, ECK, B. BROWN, LYNCH,

3 FRITZ, WYATT, WISEMAN, HIBBARD, D. BROWN, KEATING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~ERABTING-A-SCIENCE--AND~~
6 ~~TECHNOLOGY--ADVISORY-COUNCIL~~; EXTENDING INVESTMENT AUTHORITY
7 FROM THE PERMANENT COAL TAX TRUST FUND; GENERALLY REVISING
8 THE MONTANA SCIENCE AND TECHNOLOGY FINANCING ACT; AMENDING
9 SECTIONS 17-6-201, 17-6-308, 90-3-102, 90-3-305, 90-3-505,
10 90-3-523, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN
11 EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 ~~NEW-SECTION:--Section 1. Science-----and-----technology--~~
15 ~~advisory-council;--(1) There--is--a--science--and--technology~~
16 ~~advisory-council;~~

17 ~~{2}--The--council-is-composed-of-11-members-appointed-by~~
18 ~~the---governor---from---the---private---sector---and---the~~
19 ~~university-based-research-and-development-community;~~

20 ~~{a}--Ex--officio--members-include-the-executive-director~~
21 ~~of-the-Montana-board-of-science-and--technology--development~~
22 ~~and---the---commissioner---of---higher---education---or---the~~
23 ~~commissioner's-designee;~~

24 ~~{b}--The-members-to-be-appointed-by-the-governor-include~~
25 ~~nine-members-representing-Montana's-agricultural,--forestry,~~

1 ~~mining,--energy,--manufacturing,--communications,--and-other~~
2 ~~industries;~~

3 ~~{3}--Members-shall-serve-3-year-terms;~~4 ~~{4}--The-council-shall:~~

5 ~~{a}--produce--and--update--the---Montana---science---and~~
6 ~~technology-plan-biennially;~~

7 ~~{b}--oversee--the--implementation-of-all-elements-of-the~~
8 ~~Montana-science-and-technology-plan,--and~~

9 ~~{c}--provide-advice-and-counsel--to--the--governor,--the~~
10 ~~legislature,--the--Montana-board--of-science-and-technology~~
11 ~~development,--and-other-state-agencies--involved--in--science~~
12 ~~and-technology-development;~~

13 ~~{5}--The--council--is--allocated--to--the--department-of~~
14 ~~commerce-for-administrative-purposes--only--as--provided--in~~
15 ~~2-15-121;~~

16 Section 1. Section 17-6-201, MCA, is amended to read:

17 "17-6-201. Unified investment program -- general
18 provisions. (1) The unified investment program directed by

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 394

INTRODUCED BY BENEDICT, ECK, B. BROWN, LYNCH,

FRITZ, WYATT, WISEMAN, HIBBARD, D. BROWN, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SCIENCE AND TECHNOLOGY ADVISORY COUNCIL; EXTENDING INVESTMENT AUTHORITY FROM THE PERMANENT COAL TAX TRUST FUND; GENERALLY REVISING THE MONTANA SCIENCE AND TECHNOLOGY FINANCING ACT; AMENDING SECTIONS 17-6-201, 17-6-308, 90-3-102, 90-3-305, 90-3-505, 90-3-523, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Science and technology

advisory council. (1) There is a science and technology advisory council.

(2) The council is composed of 11 members appointed by the governor from the private sector and the university-based research and development community.

(a) Ex-officio members include the executive director of the Montana board of science and technology development and the commissioner of higher education or the commissioner's designee.

(b) The members to be appointed by the governor include nine members representing Montana's agricultural, forestry,

mining, energy, manufacturing, communications, and other industries.

(3) Members shall serve 3-year terms.

(4) The council shall:

(a) produce and update the Montana science and technology plan biennially;

(b) oversee the implementation of all elements of the Montana science and technology plan; and

(c) provide advice and counsel to the governor, the legislature, the Montana board of science and technology development, and other state agencies involved in science and technology development.

(5) The council is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall must be administered by the board of investments in accordance with the prudent expert principle, which requires any investment manager to:

(a) discharge his duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity

1 with the same resources and familiar with like matters
2 exercises in the conduct of an enterprise of a like
3 character with like aims;

4 (b) diversify the holdings of each fund within the
5 unified investment program to minimize the risk of loss and
6 to maximize the rate of return, unless under the
7 circumstances it is clearly prudent not to do so; and

8 (c) discharge his duties solely in the interest of and
9 for the benefit of the funds forming the unified investment
10 program.

11 (2) Retirement funds may be invested in common stocks
12 of any corporation provided that no investment may not be
13 made at any time which that would cause the book value of
14 such the investments in any retirement fund to exceed 50% of
15 the book value of such the fund or would cause the stock of
16 one corporation to exceed 2% of the book value of such the
17 retirement fund.

18 (3) (a) Nothing-contained-in-this This section prevents
19 does not prevent the investment in any business activity in
20 Montana, including activities that continue existing jobs or
21 create new jobs in Montana.

22 (b) The board is urged under the prudent expert
23 principle to invest up to 3% of retirement funds in venture
24 capital companies. Whenever possible, preference should be
25 given to investments in those venture capital companies

1 which demonstrate an interest in making investments in
2 Montana.

3 (c) In discharging its duties, the board shall consider
4 the preservation of purchasing power of capital during
5 periods of high monetary inflation.

6 (4) The board has the sole primary authority to invest
7 state funds. No Except as provided in this chapter, no other
8 agency may invest such state funds. The board shall direct
9 the investment of state funds in accordance with the laws
10 and constitution of this state. The board has the power to
11 veto any investments made under its general supervision.

12 (5) The board shall:

13 (a) assist agencies with public money to determine if,
14 when, and how much surplus cash is available for investment;

15 (b) determine the amount of surplus treasury cash to be
16 invested;

17 (c) determine the type of investment to be made;

18 (d) prepare the claim to pay for the investment; and

19 (e) keep an account of the total of each investment
20 fund and of all the investments belonging to such the fund
21 and a record of the participation of each treasury fund
22 account therein in each fund.

23 (6) The board may:

24 (a) execute deeds of conveyance transferring all real
25 property obtained through foreclosure of any investments

1 purchased under the provisions of 17-6-211 when full payment
2 has been received therefor for the property;

3 (b) direct the withdrawal of any funds deposited by or
4 for the state treasurer pursuant to 17-6-101 and 17-6-105;

5 (c) direct the sale of any securities in the program at
6 their full and true value when found necessary to raise
7 money for payments due from the treasury funds for which the
8 securities have been purchased.

9 (7) The cost of administering and accounting for each
10 investment fund ~~shall~~ must be deducted from the income
11 therefrom from each fund.

12 (8) At the beginning of each fiscal year, the board
13 shall, from the appropriate fund, reimburse the department
14 of commerce for the costs of administering programs
15 established under Title 90, chapter 3, that are not covered
16 by payback funds available from the account established in
17 90-3-305.

18 (9) (a) The director of the department of
19 administration annually may prepare a statewide cost
20 allocation plan to distribute program costs incurred by
21 state agencies that are funded through the general fund to
22 the programs served by the agencies. Except as provided in
23 subsection ~~(8)(b)~~ (9)(b), the cost to an agency of providing
24 services to a program funded through an account in the state
25 special revenue fund as defined in 17-2-102 must be deducted

1 by the board from the account's investment earnings
2 according to the statewide cost allocation plan. Amounts
3 deducted by the board must be credited to the general fund.

4 (b) ~~No A~~ deduction for program costs, as provided in
5 subsection ~~(8)(a)~~ (9)(a), may not be made if an account's
6 cash on hand is pooled for investment in the treasury cash
7 account defined in 17-6-202."

8 **Section 2.** Section 17-6-308, MCA, is amended to read:

9 "17-6-308. Authorized investments. (1) Except as
10 provided in subsections (2) and (3) and subject to the
11 provisions of 17-6-201, the Montana permanent coal tax trust
12 fund must be invested as authorized by rules adopted by the
13 board.

14 (2) The board may make loans from the permanent coal
15 tax trust fund to the capital reserve account created
16 pursuant to 17-5-1515 to establish balances or restore
17 deficiencies in the account. The board may agree in
18 connection with the issuance of bonds or notes secured by
19 the account or fund to make the loans. Loans must be on
20 terms and conditions as the board determines and must be
21 repaid from revenues of the board realized from the exercise
22 of its powers under 17-5-1501 through 17-5-1518 and
23 17-5-1521 through 17-5-1529, subject to the prior pledge of
24 the revenues to the bonds and notes.

25 (3) The board shall allow the Montana board of science

and technology development, provided for in 2-15-1818, to administer ~~\$7.5~~ \$15.5 million of the permanent coal tax trust fund for seed capital project loans and ~~\$5.1~~ \$8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, ~~1994~~ 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201.

(4) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

Section 3. Section 90-3-102, MCA, is amended to read:

"90-3-102. Definitions. As used in this chapter the following definitions apply:

(1) "Act" means the Montana science and technology financing act.

(2) "Board" means the Montana board of science and technology development provided for in 2-15-1818.

(3) "Company" means a firm, partnership, corporation,

association, or any other entity authorized to conduct business in Montana.

(4) "Convertible debenture" means a debenture convertible into stock under certain conditions by any individual or company. The debenture may not be converted by the board.

(5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(6) "Department" means the department of commerce created in 2-15-1801.

(7) "Expansion capital project" means a science and technology development project undertaken to enable a company to expand its manufacturing and marketing activities in order to move its products or services into new markets or to expand existing markets.

(8) "Innovative technology" means the involvement of a product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(9) "Matching funds" means the funds received in cash by the science and technology development project loan recipient from nonstate-appropriated sources and committed by the loan recipient to the project in an amount that is at

1 least equal to the funds loaned to the recipient by the
2 board for use in the science and technology development
3 project.

4 (10) "Medical facility research and development project"
5 means a research and development project designed to advance
6 the development and operation of facilities that concentrate
7 on fields of medical research involving advanced technology
8 applied to national medical concerns through the financing
9 of personnel, equipment, and operating costs with the goal
10 of establishing the facilities as enduring research
11 organizations in Montana.

12 (11) "Portfolio company" means a startup or expansion
13 stage company that has received a seed capital project loan
14 from the board.

15 (12) "Private sector" means any entity or individual,
16 not principally a part of or associated with a governmental
17 unit, that is associated with or involved in commercial
18 activity.

19 (13) "Research and development project" means a science
20 and technology development project that falls into the
21 category of research capability development, applied
22 technology research, or technology transfer and assistance.

23 (14) "Research and development project loan" means a
24 science and technology development project loan entered into
25 between the board and a loan recipient for a research and

1 development project.

2 (15) "Science and technology development project" means
3 either a seed capital project or research and development
4 project designed to discover, develop, transfer, utilize, or
5 commercialize existing or new, innovative technology in
6 order to strengthen and enhance economic development in
7 Montana.

8 (16) "Science and technology development project loan
9 agreement" or "loan" means an agreement entered into between
10 the board and the loan recipient of a seed capital project
11 loan or a research and development project loan that:

12 (a) creates a debt relationship between the parties;

13 (b) provides for a financial return to the board;

14 (c) provides economic development potential to the
15 state; and

16 (d) contains the applicable provisions and terms
17 required by this chapter.

18 (17) "Seed capital project" means a startup capital
19 project or expansion capital project.

20 (18) "Seed capital project loan" means a science and
21 technology development project loan entered into between the
22 board and a loan recipient for a seed capital project.

23 (19) "Startup capital project" means a science and
24 technology development project that assists a company in
25 initiating commercial operations.

(20) "State" means the state of Montana.

(21) "Technology transfer" means a two-way process by which ideas or inventions for processes or products developed in a research program, usually on a laboratory or pilot-plant scale, are converted to commercial use.

(22) "Venture capital company" means a partnership, corporation, or other business entity engaged in raising funds from investors and earning a financial return for those investors by making equity or quasi-equity investments in new or expanding business.

~~(22)~~(23) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 4. Section 90-3-305, MCA, is amended to read:

"90-3-305. (Temporary) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) Any time the balance of the science and technology development account exceeds \$50,000, the board shall transfer the amount of the balance in excess of \$50,000 to the general fund. (Terminates June 30, 1993--sec. 3, Ch. 9, Sp. L. January 1992.)

90-3-305. (Effective July 1, 1993) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) The department may use all payback funds deposited in the account to cover administrative costs of programs authorized under this chapter. Payback funds must be used to cover administrative costs before the funds received from

the board of investments under 17-6-201(8) are used."

Section 5. Section 90-3-505, MCA, is amended to read:

"90-3-505. Research and development project -- goals.

(1) The board may make a research and development project loan upon a determination by the board that the proposed project meets the loan criteria established in 90-3-502 and 90-3-506 and that the project meets one of the goals established in subsection (2).

(2) The goals of the research and development project loan program are:

(a) to significantly upgrade existing research capabilities within the state's research and development institutions and organizations;

(b) to provide financial support to individual research projects that have significant potential to:

(i) advance technology development in the state; or

(ii) be readily commercialized upon completion of the research phase; or

(c) to facilitate the process of transferring research from the laboratory to the commercial marketplace; or

(d) to enhance the competitiveness of Montana's small and medium-sized firms in the national and international markets by stimulating the productivity and modernization of the firms.

(3) These goals may be accomplished by:

(a) supporting the advanced technology centers of excellence program that will institutionalize cooperative arrangements between the public sector and the private sector and significantly build on existing research and development capabilities;

(b) providing financial support for individual research and development projects that are at a preprototype or early stage but that hold significant potential for future commercial success;

(c) providing financial support for the development of advanced research capabilities within the state's university system through the acquisition of facilities, equipment, or personnel and for the development of a university-based technology transfer program;

(d) facilitating the flow of information to technology-based entrepreneurial businesses in the state to assist those businesses in reaching their full commercial potential; or

(e) improving the information and resources available to entrepreneurs in the state who are involved in commercialization of innovative products and processes; or

(f) fostering competitiveness, productivity, and modernization of Montana firms, farms, ranches, mills, and mines."

Section 6. Section 90-3-523, MCA, is amended to read:

1 "90-3-523. Seed capital project loan agreement --
 2 specific requirements -- payback. (1) Except as provided in
 3 90-3-519, in addition to the loan agreement provisions
 4 required in 90-3-522, a seed capital project loan must be
 5 structured as contracted debt that includes but is not
 6 limited to the following terms:

7 (a) an interest rate set at the level that provides a
 8 return to the board, from paybacks by all of its portfolio
 9 companies, in an amount at least equal to the principal
 10 amount of the loans and that provides for a market rate of
 11 return when considering the overall benefit to the state
 12 derived from the projects;

13 (b) a provision in the note that may defer debt service
 14 until maturity of the note, the term of which may not exceed
 15 8 years;

16 (c) a loan amount that may not exceed \$350,000 in any
 17 one round of financing. Successive rounds of financing in
 18 which the board participates for any one company may not
 19 occur within a 9-month period unless the board determines
 20 that there is an overriding financial benefit to the board's
 21 portfolio. The total amount that may be loaned to any one
 22 company may not exceed ~~\$750,000~~ 10% of the seed capital
 23 funds managed by the board.

24 (d) a provision that the note becomes due in full upon
 25 dissolution or liquidation of the company.

1 (2) (a) In addition to the provisions in 90-3-522 and
 2 subsection (1) of this section, a seed capital project loan
 3 agreement may provide for any of the following:

4 (i) a convertible debenture;
 5 (ii) a warrant held by the board; or
 6 (iii) a warrant held by a third party for the benefit of
 7 the board.

8 (b) The board itself may not convert the convertible
 9 debenture, exercise the warrant, or hold stock acquired upon
 10 any conversion or exercise."

11 **Section 7.** Section 90-3-524, MCA, is amended to read:

12 "90-3-524. Research and development project loan
 13 agreement -- specific requirements -- payback. In addition
 14 to the loan agreement provisions described in 90-3-522, a
 15 research and development project loan agreement must be
 16 structured as contracted debt with the following terms:

17 (1) The agreement must include provisions calling for a
 18 payback of at least two times the original loan amount paid
 19 as a percentage of the income stream derived from the sale
 20 or other commercialization of products or processes
 21 developed with the board's financing--~~This--percentage--rate~~
 22 may not exceed 5% as negotiated by the parties.

23 (2) The payback on a research and development project
 24 loan for a technology transfer and assistance project may be
 25 made pursuant to subsection (1) or may be realized in terms

of indirect benefits related to the goals and criteria of the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. The payback on a research and development project loan for a technology transfer and assistance project made from the permanent coal tax trust fund may not be repaid in terms of indirect benefits.

(3) THE AGREEMENT BETWEEN THE BOARD AND THE COMMISSIONER OF HIGHER EDUCATION ON THE PAYBACK OF A RESEARCH AND DEVELOPMENT PROJECT LOAN MUST GUARANTEE A MINIMUM ANNUAL PAYBACK OF \$250,000, COMMENCING ON JUNE 30, 1994."

Section 8. Section 90-3-525, MCA, is amended to read:

"90-3-525. Deposit of payback. (1) The payback of principal and earnings on a research and development project loan from a source other than the Montana permanent coal tax trust fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(2) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use

by the board department to cover the administrative costs of loans made pursuant to this chapter. The paybacks include all those received after January 1, 1989.

(3) All paybacks of earnings to the board from loan agreements using permanent coal tax trust funds must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 to pay the department's administrative and accounting costs associated with the loans. The balance must be deposited to the permanent coal tax trust fund within 30 days."

~~NEW SECTION. Section 10. Codification. instruction. {Section-1} is intended to be codified as an integral part of Title 27, chapter 15, part 10, and the provisions of Title 27, chapter 15, part 10, apply to {section-1}.~~

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 1993.

-End-

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 23, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 237, HB 394, HB 543, HB 635
Executive Action: HB 237, HB 543, HB 596, HB 383

HEARING ON HB 394

Opening Statement by Sponsor:

Representative Steve Benedict, House District 64, opened on HB 394, stating the Montana Science and Technology Alliance (MSTA), created in 1989, was given management authority over \$7.5 million in coal trust tax funds. He stated the MSTTA was given an additional \$5.1 million for research and development programs. He stated the original \$7.5 million is called the Seed Capital Program, and the additional \$5.1 million dollars is referred to

the R&D program. He stated HB 394 would authorize additional authority of \$8 million for the Seed Capital Program and another \$3 million for the R&D program. Representative Benedict stated HB 394 would remove all of the administration and overhead costs from the general fund. He stated the removal of these funds would save the general fund \$450,000. He stated MSTA can start generating their own money internally from paybacks.

Proponents' Testimony:

David Toppen, University Systems, Office of the Commissioner of Higher Education, Board of Regents, stated his support of HB 394.

Chris Ebeling, McGlaughlin Research Institute, stated HB 394 allowed for appropriations to the Research Institute from MSTA. She stated the appropriations had provided for on-going expansion and development. Ms. Ebeling stated the money provided allows people to come into Montana with grant money.

Dave Tippen, TMA Technology, stated MSTA allowed for his company to receive \$700,000 which is being paid back at 10.5% interest. He stated the money granted created 40 jobs and \$1.5 million in outside investments. He supplied the Committee with a letter from TMA Technologies (Exhibit #1).

Wendell Guthrie, Vice President, Manufacturing, Ultrafem, Inc. stated his support of HB 394. He stated Ultrafem was brought into existence to market a group of products which would improve female health care. He stated Ultrafem has raise around \$5 million in 3 years and the stock includes investments from MSTA. He stated Montana had the quality of life, quality of work-force, transportation availability and the cooperation from the educational institutions which made it attractive to companies. He stated the final choice for Ultrafem to move in Montana was the MSTA's interest in investing in the company.

Bob Swenson, Vice President of Research, MSU, read from prepared testimony in support of HB 394 (Exhibit #2).

James Tutwiler, Montana Chambers of Commerce, stated Montana has below average incomes and growth potential. He stated HB 394 would give Montana an opportunity to expand its incomes and growth potential.

Carl Russell, Executive Director, MSTA, stated his support of HB 394.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Klampe asked Representative Benedict how HB 2 would effect HB 394. Representative Benedict stated there was an amendment on HB 2 which would allow for the funding of HB 394 upon its passage. He stated the amendment also allowed for nothing but payback income for self-funding of the MSTA.

Senator Christiaens asked Representative Benedict if \$250,000 was the minimum annual payback, and where they got the figure from. Representative Benedict stated the figure was brought by the University System. Senator Christiaens asked where the University System would get the money to pay back the MSTA. Representative Benedict stated the income would be from outside money for research and development. He stated they also charge for services. David Toppen stated the paybacks start out at a low figure and slowly, but increase in rate and speed with time. He stated there are royalty and patent incomes from the research and development programs funded by the MSTA. Mr. Toppen stated the university agreed to a minimum, system-wide payback of \$250,000 annually.

Senator Christiaens asked Mr. Toppen if there was special authorization by the legislature for the expenditure of royalty and patent incomes by higher education. Mr. Toppen stated the legislature has allowed for the University System to reinvest patent and royalty incomes.

Senator Lynch asked Mr. Russell about the 10.5% interest rate. Mr. Russell stated the use of bonds were no longer allowed for funding. He stated the interest rate on a convertible debenture bond is what is used to determine the rate.

Closing by Sponsor:

Representative Benedict stated HB 394 would help the state to "break free" from their reliance on their basic-industry jobs, they would have to invest in programs like MSTA. He stated HB 394 would provide the types of jobs which the children of the state are preparing. He stated without MSTA there is no support of industries moving into Montana and deny the opportunity for the children to find good jobs in the state.

HEARING ON HB 543Opening Statement by Sponsor:

Representative David Ewer, House District 45, stated HB 543 would enable fiduciary agents of trust companies to use the mutual fund products which their bank holding companies offer. He stated if a person has assets under management by a trust company, and the

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/23/94

NAME PRESENT ABSENT EXCUSED

Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			✓
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		



TMA Technologies, Inc.

March 22, 1993

Senator J.D. Lynch
Chairman Business and Industry Committee
Capitol Station
Helena, MT 59620

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3/23/93
BILL NO. HB 394

Dear Mr. Chairman and Committee Members:

TMA is a portfolio company now employing 41 people and we are anticipating major growth during the next few years. MSTA was able to provide the necessary funding at a critical time to enable us to complete our R&D on products that are now successful in the marketplace. All of our customers are out of state and are mainly comprised of Fortune 100 companies. Our jobs pay very well and being a manufacturing company, we are able to create additional jobs as we purchase from vendors in our community.

In capital short Montana, MSTA plays a vital role in augmenting capital needs. While these investments do not provide an immediate return (beyond the 10.5% annual interest earned), some of us are planning to go public in the near future and the profit to Montana will be very handsome. On an immediate basis, many jobs are being created which is, in turn, broadening our tax base. We were able to raise another \$1.5 million in equity from outside the State because MSTA provided key capital at the right time.

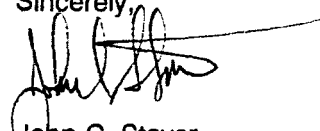
MSTA is made up of people with unique experience and abilities necessary for managing portfolio funds. If the portfolio were turned over to MBOI, this particular type of expertise would be lost. These people are necessary to capture the major return desired on the funds already invested.

As a State, we face difficult decisions in this session. Balancing delicately between increasing an already burdensome tax level and decreasing services and spending requires your most prudent wisdom and judgement.

By adding MSTA management authority for the requested sums of money through FY 1995, you will be helping improve our situation for the future through the further creation of well paying jobs and through diversifying our industry tax base in the State. The return, both near and long-term, will multiply the investment back to Montana.

MSTA has certainly made the difference in our decision to permanently locate in Montana. Please vote in favor of House Bill 394.

Sincerely,



John C. Stover
President - CEO

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 3/23/93

BILL NO. HB 394

March 22, 1993

Testimony for MSTA

Mr. Chairman, Members of the Committee

The State of Montana is at a watershed in its history. The direction we choose now will impact the state for decades. If we are organized, disciplined, and committed to building for the long term, Montana will become an active economic contributor to the economy of the 21st century. If, however, we hesitate and focus on short-term problems at the expense of ignoring the opportunities of the future, we risk the danger of being left behind.

In spite of the serious federal deficit, the Clinton-Gore policy is to provide an "economic stimulus program" in order to bring science and technology to industrial modernization and economic diversification -- the country's hope to improve our national competitiveness and balance of trade. "...in 1990 the U.S. posted a \$34.1 billion surplus in overall high-technology trade. At the same time, it posted huge deficits in other fields." (Energy Law Journal)

Montana through MSTA and the MSTC has done its homework. A cross section of over 200 Montanans from the eight main Montana economic sectors spent two years and have put together two documents spelling out the needs of Montana's economy. These documents have been very well received in Washington and considered among the best in the Nation. We are well positioned to take advantage of the substantial federal programs designed or being designed to help states help themselves. What the federal programs require are

1. State plans and organization -- which we have through MSTA, MSTC and the Science and Tech Plan and Action Agenda.
2. Matching-funds -- which are partly included in this bill.
3. Competitive proposals which survive merit-based competition -- we have demonstrated our abilities in this area.

The ONLY state matching funds are in this bill, so if Montana is going to be in the national competition for money from the National Competitiveness Act or the Technology Reinvestment Program then it is critical that you act favorably on this bill.

Thank you for your attention.

Robert J. Swenson, Vice President for Research, MSU

Amendments to House Bill No. 394
Third Reading Copy

Requested by Representative Wanzenried
For the Committee on Business and Industry

Prepared by Greg Petesch
March 22, 1993

1. Page 5, lines 12 through 17.
Strike: subsection (8) in its entirety
Renumber: subsequent subsections
2. Page 5, line 23.
Strike: "(9) (b)"
Insert: "(8) (b)"
3. Page 6, line 5.
Strike: "(9) (a)"
Insert: "(8) (a)"
4. Page 12, line 24 through page 13, line 1.
Following: "." on page 12, line 24
Strike: remainder of line 24 through "." on page 25, line 1

MSTA is currently funded with state special revenue in House Bill 2: \$457,378 in fiscal 1994 and \$455,960 in fiscal 1995. House Bill 2 also contains language saying it is the intent of the legislature that MSTA be funded only with revenue received from loan repayments in the 1995 biennium.

If House Bill 394 is approved without this amendment, MSTA will be funded: 1) with revenue received from loan repayments; and 2) with interest from the coal trust fund, which will be paid to MSTA as a management fee by the Board of Investments to fund whatever program costs are not covered by loan repayment revenues.

If House Bill 394 is approved with this amendment, MSTA will be funded only with loan repayment revenue.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 3/23/93
BILL NO. HB 394

DATE 3/23/93

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 237, HB 394, HB 543, HB 635

Name	Representing	Bill No:	Check One	
			Support	Oppose
Robert Dunlop	myself	HB 237	✓	
Warren Stone	myself	HB 635		✓
Mitzi Schwab	DHES	HB 237	✓	
Bill LEARY	MT. BANKERS ASSN.	HB 543	✓	
Bob Swenson	Montana State University	HB 394	✓	
Rae Wederman	Fed Cash Management	HB 543	✓	
Jim Twitell	MT CHAMBER	HB 394	✓	
Garth Jackson	Sec of State	HB 635	✓	
Peter Funk	Dept. of Just.	HB 635	✓	
Carl Russell	MSTA	HB 394	✓	
Wendell Gulliver	UltraFem MST A	HB 394	✓	
David F. Tippen	TMA Technologies	HB 394	✓	
Keith L. Colbo	Private Capital Net	HB 394	✓	
Ken Williams	MPC/Entech	HB-394	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 26, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None.
Executive Action: SB 354, SB 430, HB 94, HB 305, HB 355,
HB 394, HB 422, HB 575, HB 619, HB 635.

EXECUTIVE ACTION ON SB 354

Motion:

Senator Bruski-Maus moved SB 345 DO PASS.

Senator Klampe stated he felt the posting of price lists would reach into every profession which was "absurd".

Senator Lynch stated HB 355 would set a precedence, and added if it expanded into other professions, it would benefit the consumer.

Senator Klampe stated he could not see how the price lists would help the senior citizens because they are not mobile enough to get around town to look at the different price lists.

Senator Lynch stated HB 355 was not a cure-all, but would remedy some of the problems associated with health care costs.

Senator Rea asked Senator Kennedy about the difference in prices between the generic and national brands. Senator Kennedy stated HB 335 would require both prices be on the list.

Senator Kennedy stated the second "whereas" was necessary to make the public aware that the pharmacists do not price drugs solely on their own.

Senator Harding stated she felt HB 355 was a good idea for senior citizens because it gives them the ability to shop around.

Senator Kennedy stated there are various quantities of drugs which can be prescribed and added there is a standard quantity listed in HB 355.

Senator Rea asked if there was such a thing as a quantity discount and if the pharmacies will be able to keep up with the price changes. Senator Kennedy stated the pharmacists are willing to do the work necessary to enforce HB 355.

Vote:

The motion CARRIED 10 to 2 with Senator Klampe and Senator Gage voting NO.

EXECUTIVE ACTION ON HB 394

Discussion:

Senator Christiaens asked Terry Perigo from the LFA to explain HB 394.

Informational Testimony:

Terry Perigo, Legislative Fiscal Analyst Office (LFA), stated the Montana Science and Technology Alliance (MSTA) has been funded through general funds. She stated the Natural Resources and Commerce Subcommittee added language which would amend HB 2 to

state if HB 394 passed, then the general fund for the MSTA would be replaced with state special revenue funds. She stated on the floor of the House the MSTA was eliminated from receiving any state funding. She stated Representative Hibbard amended HB 2 so MSTA would receive state special revenue funds. She stated the MSTA receives paybacks from loans it has made and all of the payback plus interest and earnings goes into the state special revenue account. She stated HB 394 would not change this process.

Ms. Perigo stated HB 394 allowed for two additional sources of state special revenue funds in case the paybacks were not sufficient funding. She stated the first fund was a "management fee" from the interest earnings of the coal trust funds. She stated the management fee would be paid to MSTA by the Board of Investments only after MSTA had spent all of the funds in the state special revenue account.

Ms. Perigo stated the interest from the coal trust fund would be split with 85% going to the general fund and 15% to the school equalization account only after the Board of Investments and MSTA had received their share.

Ms. Perigo stated HB 394 would change the law regarding loans MSTA has made from the permanent coal trust fund. She stated all of the principal from the loans went into the trust and 85% of the interest and earnings went to the general fund and 15% went to the school equalization fund. She stated HB 394 would allow for only the principal to be returned to the coal trust fund and any interest and earnings would be deposited in the state special revenue fund for MSTA.

Ms. Perigo stated HB 394 would allow MSTA to spend payback from loans made from other than coal trust funds. She stated MSTA would also be allowed to spend interest and earnings received from loan paybacks made from the permanent coal trust fund. She stated if the above incomes were not enough to fund their operations, the Board of Investments would be able to give them "management fees" from the interest off the permanent coal trust fund.

Ms. Perigo stated Representative Wanzenried had proposed an amendment to HB 2 which stated it was the intent of the Legislature that MSTA use project payback to fund their operations only. She stated Representative Wanzenried wanted to eliminate the part of law which would allow money from the Board of Investments. She referred to the amendment prepared by Greg Petesch (Exhibit #1). She stated HB 394 conflicts with intent language in HB 2.

Discussion:

Senator Lynch stated he felt HB 394 should pass as it is and the Office of Budget and Planning can make a gubernatorial amendment

or HB 2 can be amended.

Motion:

Senator Christiaens moved HB 394 BE AMENDED (Exhibit #1).

Discussion:

Senator Christiaens stated without the amendments, conflicts exist between language in HB 2 and HB 394. He stated without the amendments, HB 2 would be straightened out in conference committee. He stated if HB 394 were amended, and the House did not agree with the amendments, a conference committee would resolve any problems.

Senator Lynch stated he opposed Senator Christiaens' motion and stated if there were to be any resolutions to HB 2, they could be taken care of at a later date. He stated he felt the MSTA was a good idea because it supported small businesses in Montana and was good for industry.

Mr. Campbell stated there was a summary of what the amendments will do to HB 394 at the bottom of the page.

Senator Brenden stated he was against the amendments because research and development is so important to new companies. He stated there should be investment in the process.

Senator Lynch stated he had confidence in Dave Lewis and there was no need to send it back to the House.

Senator Gage asked Ms. Perigo for clarification of page 18, subsection 3 if the MSTA could spend royalties and earned incomes off of patents and new items. Ms. Perigo stated the MSTA could spend royalties.

Vote:

The motion FAILED on ROLL CALL VOTE.

Motion/Vote:

Senator Mesaros moved HB 394 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 575

Motion:

Senator Klampe moved HB 575 BE CONCURRED IN.

ROLL CALL VOTE

SENATE COMMITTEE Business & Industry BILL NO. HB 394

DATE 3/26/93 TIME 10:00 A.M. P.M.

NAME YES NO

Senator Gage		✓
Senator Hager		
Senator Harding		✓
Senator Mesaros		✓
Senator Brenden		✓
Senator Wilson		✓
Senator Rea		✓
Senator Klampe		✓
Senator Koehnke		✓
Senator Bruski-Maus		✓
Senator Kennedy		✓
Senator Christiaens	✓	
Senator Lynch		✓

Justin Wolt
SECRETARY

[Signature]
CHAIR

MOTION: Amend HB 394

NO READ

Amendments to House Bill No. 394
Third Reading Copy

Requested by Representative Wanzenried
For the Committee on Business and Industry

Prepared by Greg PETesch
March 22, 1993

1. Page 5, lines 12 through 17.
Strike: subsection (8) in its entirety
Renumber: subsequent subsections
2. Page 5, line 23.
Strike: "(9)(b)"
Insert: "(8)(b)"
3. Page 6, line 5.
Strike: "(9)(a)"
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4. Page 12, line 24 through page 13, line 1.
Following: "." on page 12, line 24
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If House Bill 394 is approved with this amendment, MSTA will be funded only with loan repayment revenue.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3/26/93
BILL NO. HB 394

HOUSE BILL NO. 394

INTRODUCED BY BENEDICT, ECK, B. BROWN, LYNCH,
FRITZ, WYATT, WISEMAN, HIBBARD, D. BROWN, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SCIENCE AND TECHNOLOGY ADVISORY COUNCIL; EXTENDING INVESTMENT AUTHORITY FROM THE PERMANENT COAL TAX TRUST FUND; GENERALLY REVISING THE MONTANA SCIENCE AND TECHNOLOGY FINANCING ACT; AMENDING SECTIONS 17-6-201, 17-6-308, 90-3-102, 90-3-305, 90-3-505, 90-3-523, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. ~~Section 1. Science and technology advisory council.~~ (1) There is a science and technology advisory council.

(2) The council is composed of 11 members appointed by the governor from the private sector and the university-based research and development community.

(a) Ex officio members include the executive director of the Montana board of science and technology development and the commissioner of higher education or the commissioner's designee.

(b) The members to be appointed by the governor include nine members representing Montana's agricultural, forestry,

mining, energy, manufacturing, communications, and other industries.

(3) Members shall serve 3-year terms.

(4) The council shall:

(a) produce and update the Montana science and technology plan biennially;

(b) oversee the implementation of all elements of the Montana science and technology plan; and

(c) provide advice and counsel to the governor, the legislature, the Montana board of science and technology development, and other state agencies involved in science and technology development.

(5) The council is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall must be administered by the board of investments in accordance with the prudent expert principle, which requires any investment manager to:

(a) discharge his duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity

1 with the same resources and familiar with like matters
2 exercises in the conduct of an enterprise of a like
3 character with like aims;

4 (b) diversify the holdings of each fund within the
5 unified investment program to minimize the risk of loss and
6 to maximize the rate of return, unless under the
7 circumstances it is clearly prudent not to do so; and

8 (c) discharge his duties solely in the interest of and
9 for the benefit of the funds forming the unified investment
10 program.

11 (2) Retirement funds may be invested in common stocks
12 of any corporation provided that no investment may not be
13 made at any time which that would cause the book value of
14 such the investments in any retirement fund to exceed 50% of
15 the book value of such the fund or would cause the stock of
16 one corporation to exceed 2% of the book value of such the
17 retirement fund.

18 (3) (a) ~~Nothing-contained-in-this~~ This section prevents
19 does not prevent the investment in any business activity in
20 Montana, including activities that continue existing jobs or
21 create new jobs in Montana.

22 (b) The board is urged under the prudent expert
23 principle to invest up to 3% of retirement funds in venture
24 capital companies. Whenever possible, preference should be
25 given to investments in those venture capital companies

1 which demonstrate an interest in making investments in
2 Montana.

3 (c) In discharging its duties, the board shall consider
4 the preservation of purchasing power of capital during
5 periods of high monetary inflation.

6 (4) The board has the sole primary authority to invest
7 state funds. No Except as provided in this chapter, no other
8 agency may invest such state funds. The board shall direct
9 the investment of state funds in accordance with the laws
10 and constitution of this state. The board has the power to
11 veto any investments made under its general supervision.

12 (5) The board shall:

13 (a) assist agencies with public money to determine if,
14 when, and how much surplus cash is available for investment;

15 (b) determine the amount of surplus treasury cash to be
16 invested;

17 (c) determine the type of investment to be made;

18 (d) prepare the claim to pay for the investment; and

19 (e) keep an account of the total of each investment
20 fund and of all the investments belonging to such the fund
21 and a record of the participation of each treasury fund
22 account therein in each fund.

23 (6) The board may:

24 (a) execute deeds of conveyance transferring all real
25 property obtained through foreclosure of any investments

1 purchased under the provisions of 17-6-211 when full payment
2 has been received therefor for the property;

3 (b) direct the withdrawal of any funds deposited by or
4 for the state treasurer pursuant to 17-6-101 and 17-6-105;

5 (c) direct the sale of any securities in the program at
6 their full and true value when found necessary to raise
7 money for payments due from the treasury funds for which the
8 securities have been purchased.

9 (7) The cost of administering and accounting for each
10 investment fund shall must be deducted from the income
11 therefrom from each fund.

12 (8) At the beginning of each fiscal year, the board
13 shall, from the appropriate fund, reimburse the department
14 of commerce for the costs of administering programs
15 established under Title 90, chapter 3, that are not covered
16 by payback funds available from the account established in
17 90-3-305.

18 (9) (a) The director of the department of
19 administration annually may prepare a statewide cost
20 allocation plan to distribute program costs incurred by
21 state agencies that are funded through the general fund to
22 the programs served by the agencies. Except as provided in
23 subsection ~~(8)(b)~~ (9)(b), the cost to an agency of providing
24 services to a program funded through an account in the state
25 special revenue fund as defined in 17-2-102 must be deducted

1 by the board from the account's investment earnings
2 according to the statewide cost allocation plan. Amounts
3 deducted by the board must be credited to the general fund.

4 (b) No A deduction for program costs, as provided in
5 subsection ~~(8)(a)~~ (9)(a), may not be made if an account's
6 cash on hand is pooled for investment in the treasury cash
7 account defined in 17-6-202."

8 **Section 2.** Section 17-6-308, MCA, is amended to read:

9 "17-6-308. Authorized investments. (1) Except as
10 provided in subsections (2) and (3) and subject to the
11 provisions of 17-6-201, the Montana permanent coal tax trust
12 fund must be invested as authorized by rules adopted by the
13 board.

14 (2) The board may make loans from the permanent coal
15 tax trust fund to the capital reserve account created
16 pursuant to 17-5-1515 to establish balances or restore
17 deficiencies in the account. The board may agree in
18 connection with the issuance of bonds or notes secured by
19 the account or fund to make the loans. Loans must be on
20 terms and conditions as the board determines and must be
21 repaid from revenues of the board realized from the exercise
22 of its powers under 17-5-1501 through 17-5-1518 and
23 17-5-1521 through 17-5-1529, subject to the prior pledge of
24 the revenues to the bonds and notes.

25 (3) The board shall allow the Montana board of science

and technology development, provided for in 2-15-1818, to administer \$7.5 \$15.5 million of the permanent coal tax trust fund for seed capital project loans and \$5.1 \$8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201.

(4) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

Section 3. Section 90-3-102, MCA, is amended to read:

"90-3-102. Definitions. As used in this chapter the following definitions apply:

(1) "Act" means the Montana science and technology financing act.

(2) "Board" means the Montana board of science and technology development provided for in 2-15-1818.

(3) "Company" means a firm, partnership, corporation,

association, or any other entity authorized to conduct business in Montana.

(4) "Convertible debenture" means a debenture convertible into stock under certain conditions by any individual or company. The debenture may not be converted by the board.

(5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(6) "Department" means the department of commerce created in 2-15-1801.

(7) "Expansion capital project" means a science and technology development project undertaken to enable a company to expand its manufacturing and marketing activities in order to move its products or services into new markets or to expand existing markets.

(8) "Innovative technology" means the involvement of a product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(9) "Matching funds" means the funds received in cash by the science and technology development project loan recipient from nonstate-appropriated sources and committed by the loan recipient to the project in an amount that is at

1 least equal to the funds loaned to the recipient by the
2 board for use in the science and technology development
3 project.

4 (10) "Medical facility research and development project"
5 means a research and development project designed to advance
6 the development and operation of facilities that concentrate
7 on fields of medical research involving advanced technology
8 applied to national medical concerns through the financing
9 of personnel, equipment, and operating costs with the goal
10 of establishing the facilities as enduring research
11 organizations in Montana.

12 (11) "Portfolio company" means a startup or expansion
13 stage company that has received a seed capital project loan
14 from the board.

15 (12) "Private sector" means any entity or individual,
16 not principally a part of or associated with a governmental
17 unit, that is associated with or involved in commercial
18 activity.

19 (13) "Research and development project" means a science
20 and technology development project that falls into the
21 category of research capability development, applied
22 technology research, or technology transfer and assistance.

23 (14) "Research and development project loan" means a
24 science and technology development project loan entered into
25 between the board and a loan recipient for a research and

1 development project.

2 (15) "Science and technology development project" means
3 either a seed capital project or research and development
4 project designed to discover, develop, transfer, utilize, or
5 commercialize existing or new, innovative technology in
6 order to strengthen and enhance economic development in
7 Montana.

8 (16) "Science and technology development project loan
9 agreement" or "loan" means an agreement entered into between
10 the board and the loan recipient of a seed capital project
11 loan or a research and development project loan that:

12 (a) creates a debt relationship between the parties;

13 (b) provides for a financial return to the board;

14 (c) provides economic development potential to the
15 state; and

16 (d) contains the applicable provisions and terms
17 required by this chapter.

18 (17) "Seed capital project" means a startup capital
19 project or expansion capital project.

20 (18) "Seed capital project loan" means a science and
21 technology development project loan entered into between the
22 board and a loan recipient for a seed capital project.

23 (19) "Startup capital project" means a science and
24 technology development project that assists a company in
25 initiating commercial operations.

(20) "State" means the state of Montana.

(21) "Technology transfer" means a two-way process by which ideas or inventions for processes or products developed in a research program, usually on a laboratory or pilot-plant scale, are converted to commercial use.

(22) "Venture capital company" means a partnership, corporation, or other business entity engaged in raising funds from investors and earning a financial return for those investors by making equity or quasi-equity investments in new or expanding business.

~~(22)~~(23) "Warrant" means an instrument issued by a corporation that gives a holder other than the board the right to purchase stock of a corporation either for a limited time or perpetually."

Section 4. Section 90-3-305, MCA, is amended to read:

"90-3-305. (Temporary) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) Any time the balance of the science and technology development account exceeds \$50,000, the board shall transfer the amount of the balance in excess of \$50,000 to the general fund. (Terminates June 30, 1993--sec. 3, Ch. 9, Sp. L. January 1992.)

90-3-305. (Effective July 1, 1993) Science and technology development account. (1) There is a science and technology development account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the science and technology development account:

(a) the payback of principal and earnings on a research and development project loan, made from a source other than the Montana permanent coal tax trust fund, executed under this chapter; and

(b) all payback of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989.

(3) The department may use all payback funds deposited in the account to cover administrative costs of programs authorized under this chapter. Payback funds must be used to cover administrative costs before the funds received from

the board of investments under 17-6-201(8) are used."

Section 5. Section 90-3-505, MCA, is amended to read:

"90-3-505. Research and development project -- goals.

(1) The board may make a research and development project loan upon a determination by the board that the proposed project meets the loan criteria established in 90-3-502 and 90-3-506 and that the project meets one of the goals established in subsection (2).

(2) The goals of the research and development project loan program are:

(a) to significantly upgrade existing research capabilities within the state's research and development institutions and organizations;

(b) to provide financial support to individual research projects that have significant potential to:

(i) advance technology development in the state; or

(ii) be readily commercialized upon completion of the research phase; or

(c) to facilitate the process of transferring research from the laboratory to the commercial marketplace; or

(d) to enhance the competitiveness of Montana's small and medium-sized firms in the national and international markets by stimulating the productivity and modernization of the firms.

(3) These goals may be accomplished by:

(a) supporting the advanced technology centers of excellence program that will institutionalize cooperative arrangements between the public sector and the private sector and significantly build on existing research and development capabilities;

(b) providing financial support for individual research and development projects that are at a preprototype or early stage but that hold significant potential for future commercial success;

(c) providing financial support for the development of advanced research capabilities within the state's university system through the acquisition of facilities, equipment, or personnel and for the development of a university-based technology transfer program;

(d) facilitating the flow of information to technology-based entrepreneurial businesses in the state to assist those businesses in reaching their full commercial potential; or

(e) improving the information and resources available to entrepreneurs in the state who are involved in commercialization of innovative products and processes; or

(f) fostering competitiveness, productivity, and modernization of Montana firms, farms, ranches, mills, and mines."

Section 6. Section 90-3-523, MCA, is amended to read:

1 "90-3-523. Seed capital project loan agreement --
 2 specific requirements -- payback. (1) Except as provided in
 3 90-3-519, in addition to the loan agreement provisions
 4 required in 90-3-522, a seed capital project loan must be
 5 structured as contracted debt that includes but is not
 6 limited to the following terms:

7 (a) an interest rate set at the level that provides a
 8 return to the board, from paybacks by all of its portfolio
 9 companies, in an amount at least equal to the principal
 10 amount of the loans and that provides for a market rate of
 11 return when considering the overall benefit to the state
 12 derived from the projects;

13 (b) a provision in the note that may defer debt service
 14 until maturity of the note, the term of which may not exceed
 15 8 years;

16 (c) a loan amount that may not exceed \$350,000 in any
 17 one round of financing. Successive rounds of financing in
 18 which the board participates for any one company may not
 19 occur within a 9-month period unless the board determines
 20 that there is an overriding financial benefit to the board's
 21 portfolio. The total amount that may be loaned to any one
 22 company may not exceed \$750,000 10% of the seed capital
 23 funds managed by the board.

24 (d) a provision that the note becomes due in full upon
 25 dissolution or liquidation of the company.

1 (2) (a) In addition to the provisions in 90-3-522 and
 2 subsection (1) of this section, a seed capital project loan
 3 agreement may provide for any of the following:

- 4 (i) a convertible debenture;
- 5 (ii) a warrant held by the board; or
- 6 (iii) a warrant held by a third party for the benefit of
 7 the board.

8 (b) The board itself may not convert the convertible
 9 debenture, exercise the warrant, or hold stock acquired upon
 10 any conversion or exercise."

11 **Section 7.** Section 90-3-524, MCA, is amended to read:

12 "90-3-524. Research and development project loan
 13 agreement -- specific requirements -- payback. In addition
 14 to the loan agreement provisions described in 90-3-522, a
 15 research and development project loan agreement must be
 16 structured as contracted debt with the following terms:

17 (1) The agreement must include provisions calling for a
 18 payback of at least two times the original loan amount paid
 19 as a percentage of the income stream derived from the sale
 20 or other commercialization of products or processes
 21 developed with the board's financing. ~~This percentage rate~~
 22 ~~may not exceed 5% as negotiated by the parties.~~

23 (2) The payback on a research and development project
 24 loan for a technology transfer and assistance project may be
 25 made pursuant to subsection (1) or may be realized in terms

of indirect benefits related to the goals and criteria of the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. The payback on a research and development project loan for a technology transfer and assistance project made from the permanent coal tax trust fund may not be repaid in terms of indirect benefits.

(3) THE AGREEMENT BETWEEN THE BOARD AND THE COMMISSIONER OF HIGHER EDUCATION ON THE PAYBACK OF A RESEARCH AND DEVELOPMENT PROJECT LOAN MUST GUARANTEE A MINIMUM ANNUAL PAYBACK OF \$250,000, COMMENCING ON JUNE 30, 1994."

Section 8. Section 90-3-525, MCA, is amended to read:

"90-3-525. Deposit of payback. (1) The payback of principal and earnings on a research and development project loan from a source other than the Montana permanent coal tax trust fund must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305.

(2) All paybacks of principal and earnings to the board from any agreements executed by the board between July 1, 1985, and March 31, 1989, must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 for use

by the board department to cover the administrative costs of loans made pursuant to this chapter. The paybacks include all those received after January 1, 1989.

(3) All paybacks of earnings to the board from loan agreements using permanent coal tax trust funds must be deposited to the state special revenue fund to the credit of the science and technology development account created in 90-3-305 to pay the department's administrative and accounting costs associated with the loans. The balance must be deposited to the permanent coal tax trust fund within 30 days."

~~NEW SECTION. Section 10. Codification instruction. {Section 1} is intended to be codified as an integral part of Title 27, chapter 15, part 18, and the provisions of Title 27, chapter 15, part 18, apply to {section 1}.~~

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 1993.

-End-